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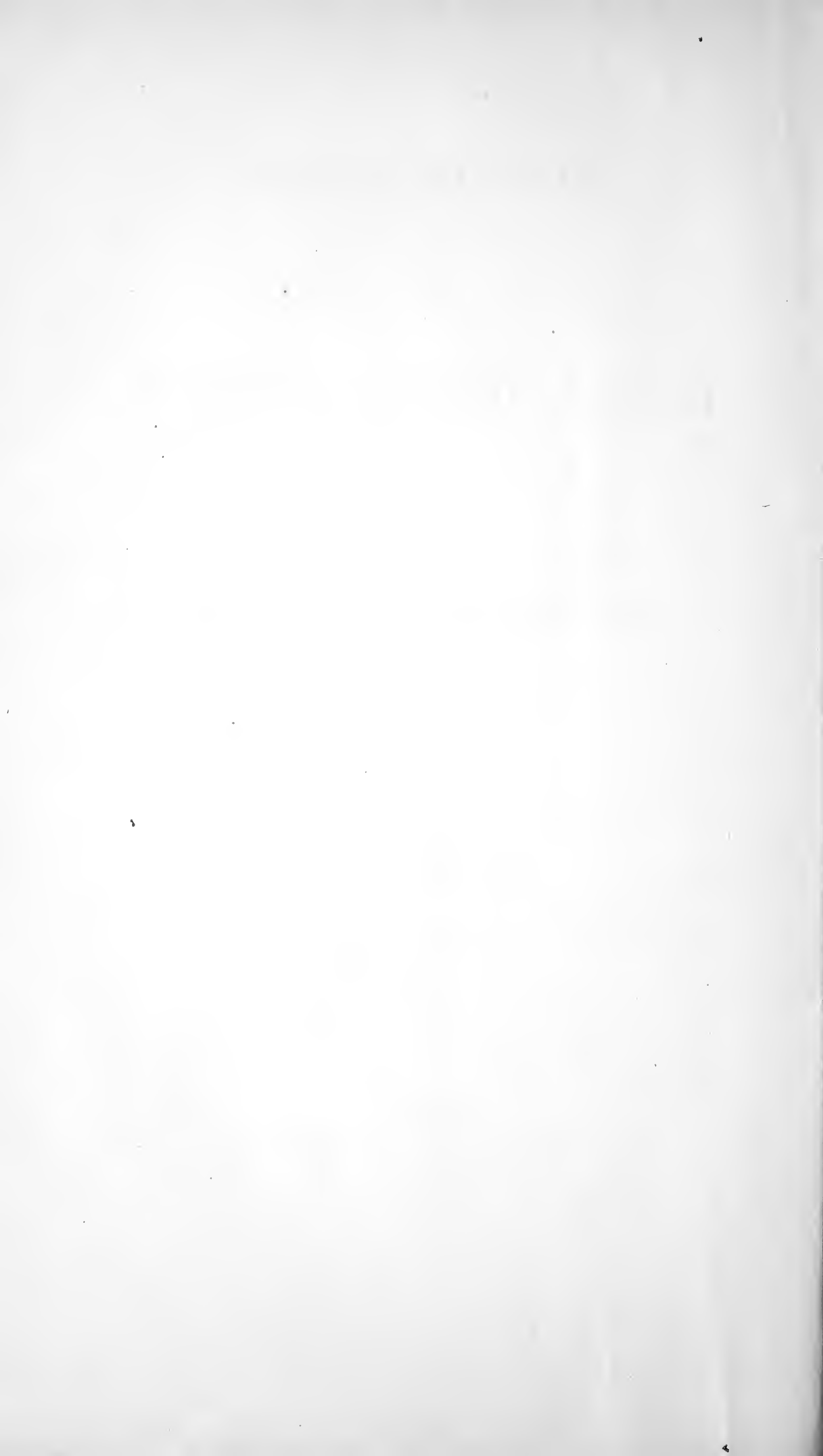
HASTY RECOGNITION
OF
REBEL BELLIGERENCY,
AND
OUR RIGHT TO COMPLAIN OF IT.

BY
GEORGE BEMIS.

BOSTON:
PUBLISHED BY A. WILLIAMS & CO.
No. 100 WASHINGTON STREET.

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PREFACE.

THE following pamphlet, I am free to acknowledge, is both controversial and American : — controversial, so far as it seeks to meet and answer the new position set up by Earl Russell, the British Secretary of State for Foreign Affairs, on behalf of his Ministry, and by Earl Russell's juridical champion, "Historicus," of the London Times, that the recognition of the American rebels as a belligerent Power was a necessity and not a choice ; and American, so far as it looks at this new *plea in avoidance* from an American point of view. Yet the writer cherishes a hope that his readers will find in the following pages something besides controversy and Americanism. He trusts that his labors will help throw light for the purposes of permanent history upon one of the great questions of public law of the nineteenth century, namely, whether the action of the two great Western Powers of Europe in so speedily raising the Confederate secessionists to the rank of a belligerent power, — thereby, perhaps, warming into life and helping to walk alone the most gigantic and immoral sedition in history, and inaugurating the bloodiest and most cruel civil war since the Christian era, — was either a friendly or a justifiable measure ; *friendly*, considering that it was apparently set in motion by one of the great heads of the English liberal party, a party whose antecedents were all in favor of popular rights, and committed without a reserve to uncompromising hostility against negro slavery, and seconded on the Southern side of the British channel by that France which had stood god-

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father to American liberties, and without whose aid Americans may freely admit that they would never have been independent unless after a long lapse of intermediate years, — or *justifiable*, because as an international precedent, when can civil rebellion ever be justly counteracted and crushed out, if not in such a case as that of this American contest? — An assault, as the second greatest leader in the rebellion himself characterized it, upon “the best and freest government, that the sun of heaven ever shone upon.”

In my attempted elucidation of this great historic question, I am well aware to how easy a refutation I expose myself (if I am wrong), when I venture to call in question Earl Russell’s statement, that the law-advisers of the Crown in recommending the issue of the Queen’s proclamation of neutrality, and so the recognition of Confederate belligerency, grounded themselves upon the American proclamation of blockade as an overruling necessity which left no choice for British action. If the Crown lawyers really gave such advice and the Foreign Secretary is not mistaken in his recollection, nothing will be easier than to produce their written opinion, — if, in the judgment of the British Cabinet, its own reputation for candor seems sufficiently involved to require it. Even then, however, I feel confident that my positions will hold good in three particulars :

(1.) That the Crown lawyers, in any advice given prior to May 6th 1861, gave an opinion upon an unofficial and probably imperfect copy of President Lincoln’s proclamation ;

(2.) That if they made the American blockade an important element in their opinion, it was only in the sense that it *entitled* not *required* Her Majesty’s Government to proclaim neutrality and belligerency ; and,

(3.) That they never advised that a manifesto of *a future* blockade, — not then enforced or known to be enforced, and which while directed against insurgent subjects, was so far municipal and *un-international* that it professed to treat as pirates those rebellious subjects and all others found guilty of any adoption of Jefferson Davis’s letters of marque and reprisal, — *required* the neutral power of Great Britain to

regard such manifesto as tantamount to the existence of a war and thereupon to recognize two belligerent parties, equally entitled to neutral consideration.

If on this latter point the record shall make against me, I shall appeal with full confidence from the judgment of English lawyers to the enlightened opinion of European and American publicists.

But, on the other hand, I venture, with all the confidence in the world, to enforce my other position with regard to the blockade proclamation, that provided the Crown lawyers gave the advice attributed to them by Earl Russell, and in that connection, yet the British Government, represented by the Foreign Secretary, *never made any account of that advice* ; and, that the true reason for British action in acknowledging Rebel belligerency and Rebel equality was that set forth in Earl Russell's despatch to Lord Lyons of May 6th, 1861, in which the Foreign Secretary declares in effect, that the American Union has gone to pieces, that the Southern Government has duly organized itself, and that Her Majesty's Government does not wish any secret to be made of its recognition and acceptance of these facts in its future dealings with the "late Union."

I ask the reader's special attention to this despatch, which I am confident that no advice of the Crown lawyers and no apology of juridical journalists can explain away or render unimportant. Unlike, too, some of the other diplomatic documents which I am obliged to quote in their *excerpted* state, as prepared for publication, this State-paper is not a mere "extract." *The whole* of its text is given, pure and simple, under the official *imprimatur* of a Blue Book ; and I presume to say, that that text will stand in history as a truer key to British intervention at the first stage of the American struggle, in the shape of what was called British Neutrality, than any new gloss first devised or first made much account of, as late as March, 1865.

I deem it highly probable that the Foreign Secretary's friends will say for him, or he for himself, in extenuation of this State-paper, that it was a hasty document, penned under the influence of what seemed at that moment, a dark juncture in American affairs ; and that it was

only subsequent events which rendered the opinions therein put forth inopportune and unfounded. Perhaps Earl Russell's friends will even urge in his behalf that he knew more, at that crisis of the rebellion, of the dangers which threatened the American Union, than the American Government itself. If so, I would ask, *Did Earl Russell get that knowledge from Rebel conspirators and from traitors against their own government?* Not that I would necessarily imply that as a diplomatist he had not a right to listen to any plots that American conspirators might see fit to break to his ear; but if he had had that superior knowledge, would it not have been an act of national friendliness, which would have redounded to the advantage of the British nation to all posterity, if he had imparted it to the government of the United States and put them on their guard against unforeseen perils from a gigantic plot of treason?

But, supposing the Foreign Secretary to have had no such illegitimate source of information opened to him, or not to have availed himself of it, if opened, as that suggested; yet, if in any way he had a better information as to the magnitude of the dangers which were about to assail the United States, than the United States Government itself,—had he a right, I ask, to act upon those threatened dangers till they had actually come to pass and wrought out their evil results? Had he a right to declare a state of belligerency as actually existing, when he only saw it as a future contingency, however inevitable? Had he a right to say to the United States,—You are gone to pieces; you are hopelessly separated into fragments; your rebels are as duly an organized a government as yourself;—when the American people had *hardly begun, as yet, to dream of the possibility of Separation, much less of the dire necessity of Civil War?*

The Foreign Secretary avows in this dispatch of the 6th of May, 1861, that he knew what a tremendous struggle might be in store for the American Republic and the momentous consequences which a declaration of European neutrality would draw after it;—why so hasty, then, in taking such a fearful step? Would it *have done any harm* to have waited twenty-four hours, or even eight days, to get speech

with the new American Minister? But, instead of waiting for Mr. Adams's explanatory statements and authentic intelligence, Earl Russell, as appears by this dispatch of the 6th of May, did not even wait for his own envoy's. While in one breath he is complaining that the delay of the steamers or the interruption of railroad and telegraph communication between Washington and New York has cut him off from the latest (and one would say most indispensable) intelligence from the seat of war, he is announcing before the close of the document, that he is prepared to act and take all the consequences of the step of "investing" the Rebels "with all the rights and prerogatives belonging to belligerents."

There may, possibly, have been no unfriendliness,—no positive ill-wishing,—in all this; but I appeal to the world, whether it was not unduly precipitate, and whether it can be excused by any plea of unavoidable necessity?

BOSTON, May 30, 1865.

NOTE. It seems proper to add, for the information of a certain portion of my readers, that a considerable part of the following paper appeared as a communication in the columns of the Boston Daily Advertiser, of May 3d, by the favor of whose editors I was thus enabled to come before the public with so much of my matter, at an earlier day of publication, and before a larger circle of readers than I should otherwise have had an opportunity of addressing.

To those who took an interest in that communication I would say that I have added about a third part of new matter; giving (*inter alia*) the remarkable despatch, in full, of Earl Russell, of May 6th, above commented on. I also subjoin, in another connection, some further strictures upon one of the closing paragraphs of that despatch, the significance of which escaped my attention at that time. I have also added another piece of evidence telling against the Foreign Secretary's regard for the American proclamation of block-

ade, which I derive from his Blairgowrie speech of September, 1863, in reply to Mr. Sumner, at the Cooper Institute in New York, the same month. For the reference to this piece of confirmatory proof I am indebted to a clerical friend who shows his appreciation of "things to come" by keeping himself well informed in public events "that now are."

I have also added to my main discussion, a more detailed reply to *Historicus's* communication to the *Times*, in defence of British Neutrality; thinking that, as I subjoin that communication to this article by way of Appendix, I may justly avail myself of this occasion to add some further criticisms which would have too much swollen my former communication for the columns of a daily newspaper. To those who are interested in seeing justice done to the speculations and statements of *Historicus*, I would suggest as the logical mode of estimating the fairness of my strictures upon them to commence the perusal of the pamphlet with the Appendix. In that way at least, by reading the eminent English publicist's paper entire and in one connection, they will get a specimen of his racy style and bold rhetoric.

Perhaps it is due to the fairness of literary and legal discussion to add that I have also availed myself of the present occasion to correct several errors of quotation from the language of others, and some inaccuracies of expression of my own, which were overlooked in the haste of preparing the newspaper communication. I believe, however, that they are all of a comparatively unimportant character

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I.

THE NEW POSITION OF THE BRITISH MINISTRY — THAT THE AMERICAN PROCLAMATION OF BLOCKADE OF THE CONFEDERATE PORTS NECESSITATED THE QUEEN'S PROCLAMATION OF NEUTRALITY — AN AFTERTHOUGHT.

It seems to be a settled thing that a serious demand is about being made by the United States upon England and France for the withdrawal or cancellation of their recognition of Confederate belligerency. I do not propose now to discuss how that demand is likely to be received by the two great Western powers of Europe, nor what should be our attitude in case of a refusal. But in anticipation of any decision, which may be come to on the other side of the water, upon the first head, I desire to call attention to a noticeable change of position which Earl Russell and "Historicus," the well-known international-law correspondent of the London Times, have just assumed, at our latest intelligence from England, in regard to the basis on which that belligerent recognition originally rested on the part of England; a change of position which implies that Englishmen are unwilling to stand by the justification then put forth, or that they are preparing themselves with a new plea to meet the anticipated demands to be made by us upon their government.

Mr. Bright, in a recent masterly speech in the House of Commons on the question of the Canadian defences [Times, March 14th],

had undertaken to tell the British representatives with bold frankness, that the reason why Englishmen feared a feeling of hostility towards them on the part of the Americans was because they had a guilty conscience themselves, that they deserved the ill-will of the United States for having treated them so badly throughout their struggle for national existence. Mr. Bright was vehemently "no, no"-d for this by some of the members of the House ; but his speech manifestly made a profound sensation both inside and outside the parliamentary walls. The London Times forthwith launched a bitter diatribe against him in the shape of a communication of two columns and a half from *Historicus*, which I propose presently to notice, and which will be found at length in the Appendix, and in two or three editorials, following up his speech, has attempted to reply to its positions. Earl Russell felt compelled to notice it in the House of Lords ; and though he could not answer it formally, through that parliamentary rule which forbids allusion in one branch to words spoken in the other, he took occasion to protest emphatically against "speeches declaring that this country [England] has behaved wrongfully to the United States," as showing England's enemies "that there is a party [here at home] ready to take up the view that the United States are in the right," and then proceeded to make a detailed rejoinder to Mr. Bright's several heads of accusation. In the course of this speech, made March 23d (London Times, March 24th), Earl Russell puts forth the following noticeable explanation of the original reasons for recognizing the Confederates as belligerents, which I undertake to assert is an entire change of base from that promulgated at the time to this country and to the world at large, and which was never heard of till months — certainly, till many weeks — after the war began, when the course of events and the judicial decisions this side of the water rendered it convenient for England to adopt a new justification for her hasty action in recognizing, and (so) befriending, the rebels. Says Earl Russell —

"Every one who knows anything of the law of nations, knows perfectly well, that although a country may put down insurgents who rise against its authority, yet that a country has no right or power to interfere with neutral commerce unless it assumes the position of a belligerent. But that is what

the United States did. The President of the United States by his proclamation declared that the coasts of particular States were in a state of blockade, and that armed vessels belonging to those States were to be treated as pirates At that time Lord Campbell held the high office of Lord Chancellor, and of course we consulted him and the law officers of the Crown as to what should be done. Lord Campbell declared, as we all supposed he would do, that there was no course but one to pursue, — namely, to regard the blockade on the part of the United States as the exercise of a belligerent right. And as belligerent rights cannot be confined to one party, but are usually exercised against somebody else, our advisers told us *that we were entitled* to recognize the existence of belligerent rights on the part of both the combatants and to declare Her Majesty's neutrality between the two parties. [Cheers.]”

The Italics near the close of the extract are mine;¹ and they naturally suggest an important difference between doing what one is only “entitled” to do, and yielding to an urgency so pressing as that just before suggested in Lord Campbell's opinion, where “there is no course but one to pursue.” I apprehend that Earl Russell only meant to assert that President Lincoln's proclamation of blockade *entitled* the British Government, not *required* it, to treat the two parties on a footing of equality. Historicus, in his sweeping dogmatism, had asserted two days before, in his communication to the Times, that, —

“It was a matter not of choice, but of necessity, that the Queen of England should issue a proclamation of neutrality to her subjects, and that that proclamation should be issued without one single instant's delay.”

He further denounces his contempt for Mr. Bright's knowledge of statesmanship by asserting that, —

“Nothing has ever so much astonished him as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or entertaining for an instant such a complaint [as that] of the premature concession of belligerent rights to the South by Great Britain.”

Now, I propose to show my readers, —

First. That this proposition of Earl Russell's and Historicus's,

¹ I desire to state that in subsequent extracts hereafter, I shall Italicize in the same manner, where I seek to give prominence to particular passages.

that the President's proclamation of blockade lay at the bottom of the recognition of the Confederates as belligerents, if not a new discovery, was never heard of at the time that that recognition was resolved upon ; certainly that it was never put forth as its justifying motive, either in contemporaneous explanation made to the United States or to the rest of the world :

Second. That any such attempted justification will fail, for the reason that no blockade, ordered by the President, was known in England to have actually been enforced at the date of the Cabinet determination to issue the proclamation of neutrality ; and, had it been known at that date, was just the act which called for explanation from international good will and courtesy, rather than an act to be visited with the harsh and summary treatment of raising a band of insurrectionists to the level of equality with their rightful government :

Third. That Historicus is guilty of the grossest inaccuracies, not to say misstatements, in his attempt to convict Mr. Bright of trumping up a case for the Americans on the score of unjust complaints about premature recognition of Confederate belligerency.

First. That Earl Russell and Historicus are getting up a new issue for the justification of English haste in recognizing the Confederates as belligerents ; — the old one being that there was a state of flagrant war between two duly organized governments.

The first element is the date on which the Cabinet determination to issue the Queen's proclamation of neutrality was arrived at. This is important, because Historicus cites with a loud flourish of trumpets a despatch of Lord Lyons to Earl Russell, dated April 22, 1861 and received in London May *tenth*, 1861, — a despatch communicating the President's proclamation of blockade of April 19, and Jefferson Davis's proclamation threatening to issue letters of marque and reprisal, dated April 17, — and asks, in a tone of confident assurance, " what was the immediate duty of a government charged with the interest of British subjects all over the world, on the receipt of such a despatch ? "

Now, unfortunately for the British Government's "*duty*," the Ministerial determination to raise the Confederates to the standing

of belligerents had been announced *four days before this despatch got to England!*

I find, in Hansard's "Parliamentary Debates" (v. 162, p. 1566), that Lord John Russell, the British Secretary of State for Foreign Affairs, on the *sixth* day of May, in answer to questions put by Mr. Gregory, announced, in his place in Parliament, that the Cabinet having "consulted the law-officers of the Crown, — the Attorney-General, the Solicitor-General, and the Queen's Advocate, — the Government have come to the opinion that the Southern Confederacy of America, according to those principles which seem to them to be just principles, must be treated as a belligerent."

Of course the London Times and other Confederate organs dilated the next morning upon the importance of this Ministerial step. So that we have it fixed as an historical fact, to all posterity, that the authorized spokesman of the British Cabinet officially announced to the House of Commons, on the 6th day of May, 1861, that the British Government had resolved to recognize the Confederates as a belligerent power. The Home Secretary, Sir George Cornwall Lewis, announced to the same body, on the 9th of the same May, that a proclamation of neutrality was about to be issued; and the proclamation itself actually bears date the 13th. But of course the blow at the integrity of the American Government — or, at American good will, shall I say? — was levelled at the date of the 6th.

So that if Historicus (following the Blue Book) correctly states the date of the reception at the Foreign Office of the official copy of the President's proclamation of blockade, on which official communication of the document only, as he seems properly to consider, were the British Government authorized to treat it as a valid State-paper, it follows — *that the Queen's proclamation of neutrality could have had no connection with the American proclamation of blockade, inasmuch as the former preceded all official knowledge of the latter by at least three entire days.*

How then could Lord Campbell or the law-advisers of the Crown have given any such advice as Earl Russell is now sure that they gave, or, as Historicus is ready dogmatically to prove, *a priori*, that they could not help but have given?

But supposing that the telegraph or the newspapers had brought

to the Foreign Office, at an earlier date than the 6th of May, the upshot and effect of the blockade proclamation, or even what purported to be a summary of its contents (of which I am free to confess that I make no question; indeed, I purpose presently to quote a despatch of Earl Russell's to Lord Cowley of that date, distinctly assuming a knowledge of its existence), and supposing further, that the law-advisers of the Crown were willing to give their opinion upon the scope and bearing of the proclamation without having the official text before them (which I must confess I can hardly for a moment believe would either have been asked or expected of them),¹ let us see if Earl Russell's new theory is borne out by the other attending facts and probabilities belonging to the case.

In the first place, I beg my readers to look at the contemporaneous explanation of motives accompanying the announcement of the determination of Her Majesty's Government to extend to the rebels the *status* of belligerents, put forth by Earl Russell himself.

I have already quoted from Hansard a part of the Foreign Secretary's declaration on the 6th of May. I now go back and give a few sentences earlier,—

“With respect to belligerent rights in the case of certain portions of a State being in insurrection, there was a precedent which seems applicable to this purpose, in the year 1825. The British Government at that time allowed the belligerent rights of the Provisional Government of Greece, and in consequence of that allowance the Turkish Government made a remonstrance. I may state the nature of that remonstrance and the reply of Mr. Canning. The Turkish Government complained that the British Government allowed to the Greeks a belligerent character, and observed that it appeared to forget that to subjects in rebellion no national character could properly belong. But the British Government informed Mr. Stratford Canning that the character of belligerency was not so much a principle as a fact; that a certain degree of force and consistency acquired by any mass of population engaged in war entitled that population to be treated as a belligerent, and, even if

¹ I believe that it will turn out on investigation that the Foreign Office at the date of the 6th of May, 1861, and until the receipt of Lord Lyons' despatch referred to, on the 10th, had not even a correct or complete newspaper-copy of the blockade proclamation before it, upon which to act or to solicit an opinion from the Crown lawyers. From what investigation I am able to give the subject, looking to two leading London

their title were questionable, rendered it the interest well understood of all civilized nations so to treat them; for what was the alternative? A power or a community (call it which you will), which was at war with another and which covered the sea with its cruisers, must either be acknowledged as a belligerent or dealt with as a pirate; which latter character as applied to the Greeks was loudly disclaimed."

So that, according to this, while Earl Russell was likening the rebels to the struggling Greeks and the Federal Government to their Turkish oppressors, — undesignedly, perhaps, though it was bitterly complained of at the time by the upholders of the Union cause, — he was approving and acting upon Mr. Canning's *dictum*, that "belligerency is not so much a principle as a fact, and that a certain degree of force and consistency, acquired by any mass of population engaged in war, entitles that population to be treated as a belligerent."

What is there here which reads like the President's proclamation not merely "entitling" but *requiring* the British Government to treat the declaration of blockade as tantamount to a declaration of war against the South? On the contrary, is not the inference unavoidable, that "the principles which seemed (to the law-advisers) to be the just principles" for recognizing a state of belligerency on the part of the South were those sanctioned by the high authority of Canning, and acted upon under his lead in the case of the Greeks *versus* the Turks?

journals and various American newspapers, I am led to believe that up to the 6th of May no other abstract or summary of the proclamation was known, on the other side of the Atlantic, than that contained in the telegraphic summary from Washington to the New York daily newspapers of April 20th, — communication being interrupted on that day between Washington and New York, and continuing so interrupted till the 27th, — which summary, instead of giving the text of the proclamation, recites as an item of news, "The President has issued a proclamation that an insurrection against the Government of the United States," &c., giving all the body of the proclamation, except the last important sentence, which denounces the penalties of piracy against all who molest United States' vessels [under Jefferson Davis's commissions of marque and reprisal], but containing such interpolations as "the President says," &c. [See, for instance, the London Daily News of May 3d, which copies this summary without the preamble or any signature of the President or Secretary of State.] The National Intelligencer of April 20th, alone of American newspapers, I suspect, gave on that day what purported to be, and what actually was, the text of the proclamation. But this newspaper, I am quite confident, did not find its way to England till it was carried out by the packet which bore Lord Lyons' official copy of the President's proclamation, communicated to him from the State Department.

In the next place, I beg attention to the Queen's proclamation itself, as containing its own exposition of the motives which occasioned its issue. Herein I gladly follow Historicus, who challenges Mr. Bright to go over the instrument with him, and see how harmlessly impartial and unnoticeably inefficient are its provisions. If it be true that Mr. Bright had never read or closely scanned these provisions, as Historicus presumes to believe, then I can only say that I venture to suggest that Mr. Bright has much better got at its scope by hearsay and on trust, than his critic, with all his refinements and improvements, who undertakes to say that it is based upon the American proclamation of blockade, and who, in a gross confounding together of the English and American proclamations (or something worse), interpolates into the latter an important paragraph belonging only to the former, and wholly perverse of its leading intent.

Says the Queen's proclamation, then, in its recital clause, —

“Whereas *hostilities have unhappily commenced* between the government of the United States of America and certain States styling themselves the Confederate States of America,” — not, whereas certain proclamations of blockade and of threat to issue letters of marque and reprisal have been published by President Lincoln and Mr. Jefferson Davis, — and [going on] “whereas we have declared our royal determination to maintain a strict and impartial neutrality *in the contest* between the said contending parties,” — not whereas we are compelled to define our position in the state of constructive warfare consequent upon the Federal manifesto, — [we therefore have thought fit] “to issue this our royal proclamation: and we do hereby strictly charge and command all our loving subjects to observe a strictly neutrality *in and during the aforesaid hostilities.*” It then goes on to recite the terms of the Foreign Enlistment Act (which Historicus says is never operative except in case of war), and concludes with the denunciation and exposition of the specific acts of entering the military or marine service of either party, &c., which will be contrary to Her Majesty's good pleasure, and will forfeit her countenance and protection as against either belligerent.

Thus summarized, is not this instrument as positive an assertion

of Her Majesty's behest and injunction that her subjects shall not intermingle in a flagrant war that has actually broken out and is now raging between the two belligerent factions of the American republic, as words can frame? At any rate, does it not fully negative the notion that Her Majesty's advisers had only in mind a *constructive* and not an *actual* state of hostilities?

The only allusion to a blockade throughout the proclamation, is, if anything, a more offensive announcement to the American Government,—who were sedulously insisting that the outbreak was only an insurrection, and to be smothered by a blockade without the use of force,—than the perverse assertion that there was already a state of flagrant war itself. It occurs toward the end of the document, where British subjects among other unneutral acts are forbidden to “break, or endeavor to break, any blockade, lawfully or actually established, by or on behalf of either of the said contending parties.” To think of its being suggested to an American, on the 6th day of May, 1861, that the Northern ports were blockaded or in danger of being blockaded by a rebel navy!

But let us look outside of the proclamation for further contemporaneous explanation of its motives. The American minister, Mr. Adams, as Mr. Bright notices, had not yet reached England, though momentarily expected there, and though his arrival within a few days, or even hours, might almost be predicted with mathematical certainty, as his sailing from Boston had already been announced. In fact, he landed at Liverpool the evening of the 13th, and was probably met by the newsboys crying the proclamation as he drove up from the steamboat to his lodgings. He hastened to London the 14th, and as soon as possible after, allowing for a few days' delay occasioned by a domestic bereavement which had befallen Lord Russell, obtained an interview with the Foreign Secretary.

The subject of the recognition of the Confederates as belligerents was, of course, one of the leading topics of this interview. Mr Adams has set down in his despatch to his government, dated May 21, 1861, the full particulars of this (to him) most interesting commencement of his ministerial career. It will be found in the “President's Message and Accompanying Documents for 1862,”

and there covers some six pages. Not one word of this dispatch, from beginning to end, speaks of recognition being rendered necessary by the President's proclamation of blockade. On the contrary, the representation then made by Lord Russell is summed up in the following sentence (p. 92), —

“ A necessity seemed to exist [as Lord Russell urged] to define the course of the government in regard to the participation of the subjects of Great Britain in the impending conflict. *Their conclusion had been that, as a question merely of fact, a war existed.*”

Earl Russell himself furnishes a report of this same interview to Lord Lyons, to be found in the Parliamentary Blue Book for 1862 (“ N. America, No. 1,” p. 34). His own version, thus afforded, contains nothing at all at variance with Mr. Adams's account, but, on the contrary, fully corroborates it in important particulars. Thus, in a paragraph relating to full recognition of rebel independence, which Mr. Adams seemed to feel apprehensive of as the next step, Earl Russell reports himself as using the following language ; — quite upsetting any theory of a state of constructive belligerency : —

“ I said that we had taken no step except that of declaring ourselves neutral and allowing to the Southern States a belligerent character ; *that the size and population of the seceding States were so considerable that we could not deny them that character.*”

Some allusion, to be sure, is made in both reports to the American blockade, but only to the point to inquire how complete the American government proposed to make it.

Now I beg to ask, if it is within the bounds of possibility, that, if the proclamation of neutrality had been based upon the President's proclamation of blockade (as Earl Russell says it was, quoting the Lord Chancellor), no allusion should have been made to it by the Foreign Secretary in this interview ? Here was Mr. Adams, seeking an immediate interview and demanding with suppressed sensibility, if not with uncontrolled excitability, what was the meaning of this piece of unexpected and unwelcome conduct

of England toward his government ? And here, on the other hand, was the Foreign Secretary, fresh from the Cabinet council and from contact with the Lord Chancellor and his legal associates, undertaking to explain the reasons of so grave and unfriendly a step on the part of his government, in the least offensive and yet most simple manner. Is it in human nature, if he could have replied to Mr. Adams, — “ It is all the fault of your President’s proclamation ; it is an unavoidable necessity forced on us by him,” — that he would not have surely done so ?

It is very noticeable, in the same connection, that Earl Russell, when called upon to vindicate the issuing of the proclamation of neutrality on an emergency similar to that created by Mr. Adams’s first official interview, and as late as September 25th, 1863, namely, in his Blairgowrie speech in reply to Mr. Sumner’s address at the Cooper Institute in New York, September 10th, 1863, omits all allusion to the proclamation of blockade as one of the justifying motives for the declaration of British neutrality. Mr. Sumner had insisted, with great vehemence and power, that the declaration of neutrality — or of “ *equality* ” between the National Government and “ the Rebel slave-mongers,” was not only “ an insult to the National Government,” but “ a moral absurdity, offensive to reason and all those precedents which make the glory of the British name.” And he had proceeded to charge upon it such bitter and momentous consequences, that one would suppose that no possible stimulant could have been wanting to induce the Foreign Secretary to revive all the justifications which memory could conjure up to palliate the measure of “ investing ” the rebels “ with all the rights and prerogatives of a belligerent.” What had Earl Russell to say in reply ?

This was his justification, according to the report of his speech in the London Times of September 28th : —

“ Our course on the subject [of Neutrality] has been attacked and blamed in the bitterest terms, — blamed sometimes by the Federals and sometimes by the Confederates. The first offence was felt by the Federals. They said we had no right to grant, so far as we were concerned, to the Confederates the rights of belligerents. Well, now, gentlemen, that question of the rights of belligerents is a *question of fact*. I put it to you whether, with 5,000,000 people — 5,000,000, I mean, of free men, declaring themselves in their several

States collectively an independent State, — we could pass over that as a petty rebellion? Our Admirals asked whether the ships they met bearing the Confederate flag should be treated as pirates or no. If we had treated them as pirates we should have been taking part in that contest. (Cheers.) It was impossible to look on the uprising of a community of five millions of people as a mere petty insurrection (Hear, hear), or as not having the rights which at all times are given to those who by their numbers and importance, or by the extent of territory they possess, are entitled to these rights. (Cheers). Well, it was said we ought not to have done that because they were a community of slaveholders, &c.”

So that at this juncture, again, there is no word about a blockade; but the old position of “a question of fact,” and “a great community of rebel subjects.” Truly, if Lord Campbell had survived to hear his noble friend make this utterance, he must have wondered at the notice taken of his own (supposed?) advice, that *the proclamation of blockade* had left but one course to pursue! ¹

But the case against Earl Russell, founded upon contemporaneous evidence furnished by himself, by no means stops with his speech in Parliament of the 6th of May, announcing the government’s decision, nor with the respective accounts of his first interview with Mr. Adams. Unfortunately for the Foreign Secretary, on the very day on which he announced in the House of Commons the Ministerial determination to recognize the rebels as belligerents, he indited two despatches, printed in the Parliamentary Blue Book for 1862, “North America, No. 3,” in which he confidentially makes known to the English ambassadors at Paris and at Washington the motives which actuated the Home Government in coming to their decision. In that to Lord Cowley (p. 1), he says, —

“The accounts which have reached them from some of Her Majesty’s consuls, coupled with what has appeared in the public prints, are sufficient to show that *a civil war has broken out* among the States which *lately* composed the American Union. Other nations have therefore to consider the light in which with reference to *that war* they are to regard the confederacy into which the Southern States have united themselves; and it appears to Her Majesty’s government that, looking at all the circumstances of the case,

¹ I would notice, in passing, how defective must have been the Foreign Secretary’s memory of dates on this occasion, in coupling despatches from the English Admirals

they cannot hesitate to admit that such confederacy is entitled to be considered as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent."

And, more pointedly still, in that to Lord Lyons, he writes (p. 2), as follows,¹ —

[LORD J. RUSSELL TO LORD LYONS.]

"*Foreign Office, May 6, 1861.*

"MY LORD, — Her Majesty's government are disappointed in not having received from you by the mail which has just arrived, any report of the state of affairs and of the prospects of the several parties, with reference to the issue of the struggle which appears unfortunately to have commenced between them; but the interruption of the communication between Washington and New York sufficiently explains the non-arrival of New York despatches.

"The account, however, which Her Majesty's consuls at different ports were enabled to forward by the packet coincide in showing that whatever may be the final result of what cannot now be designated otherwise than as *the civil war which has broken out* between the several States of the *late Union*, for the present at least those States *have separated into distinct confederacies*, and as such are *carrying on war* against each other.

"The question for neutral nations to consider is, *what is the character of the war*; and whether it should be regarded as a war carried on between parties severally in a position to wage war, and to claim the rights and to perform the obligations attaching to belligerents?

"Her Majesty's government consider that that question can only be answered in the affirmative. If the government of the *northern portion of the late Union* possesses the advantages inherent in long-established governments, the government of the southern portion has nevertheless *duly constituted itself* and carries on in a regular form the administration of the civil government of the States of which it is composed.

asking for instructions how to treat Confederate cruisers, with a period prior to May 6th, when the Secretary himself had not yet received his official copy of the President's proclamation, and when Lord Lyons in the despatch enclosing it, of the date of April 22d (the same, received May 10th, about which Historicus makes so great a demonstration), only speaks of his (Lord Lyons') losing no time in *communicating* the proclamation to Admiral Milne. It is hard to see how Admiral Milne's *answer* to this communication could have got the start of Lord Lyons' despatch, unless the Admiral happened to be ashore at Halifax, and then it would be at most a single Admiral, and not "*Admirals*," who had asked for instructions.

¹ I give this despatch entire, believing that it will constitute hereafter a memorable document in the history of the American civil struggle. See further comments on it hereafter, p. 40-39

“ Her Majesty’s government, therefore, without assuming to pronounce upon the merits of the question on which the respective parties are at issue, can do no less *than accept the facts* presented to them. They deeply deplore the disruption of a confederacy with which they have at all times sought to cultivate the most friendly relations; they view with the greatest apprehension and concern the misery and desolation in which that disruption threatens to involve the provinces *now arrayed in arms against each other*; but they feel that they cannot question the right of the Southern States to claim to be recognized as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent.

“ I think it right to give your Lordship this timely notice of the view taken by Her Majesty’s government of the present state of affairs in North America, and Her Majesty’s government *do not wish you to make any mystery of that view.*

“ I shall send your Lordship by an early opportunity such further information on these matters as may be required for your guidance; at present I have only to add that no expression of regret that you may employ at the present disastrous state of affairs will too strongly declare the feelings with which Her Majesty’s government contemplate all the evils which cannot fail to result from it.

“ I am, &c.,

“ J. RUSSELL.”

These grave utterances have never before been reprinted in the United States, that I am aware of. The despatches from which they are taken well deserve the attention of the American reader *as tending to show* (in judicial phraseology) — I will not go so far as to say *as absolutely proving* — that it was England, and not France, which took the initiative in recognizing the belligerency of the Confederates. As a matter of fact, England, as is well known, issued her proclamation of neutrality a month earlier than the French Emperor, his. But I would ask any reader, English or American, if there is anything here which sounds like “interfering with neutral commerce” by an American blockade, as spoken of by Earl Russell in his late apology for the motives for recognition, or anything that sounds like the opinion quoted by him on the part of the Lord Chancellor, “that there was no course but one to pursue, namely, to regard the blockade on the part of the United States as the exercise of a belligerent right?” On the contrary, is there not matter enough here to have disturbed the conscience of Lord Russell when he read such a sentence as that reported in Mr. Bright’s speech, in the Times of March 14? —

“Is there not a consciousness in your heart of hearts that you have not behaved generously toward your neighbor? [Loud cries of ‘No!’ and some cries of ‘Hear, hear.’] Do we not feel in some way or other a reproving of conscience! [Renewed cries of ‘No!’] And in ourselves are we not sensible of this, that conscience tends to make us cowards at this particular juncture? [‘No, no!’]”

To put my readers for a moment in possession of the facts upon which the British Secretary for Foreign Affairs was making these utterances, namely,—that a flagrant subsisting war between the two “distinct confederacies of the late Union,” and the constitution of the Southern confederacy into a duly organized form of government, were the grounds upon which Her Majesty’s government “feel that they cannot question the right of the Southern States to claim to be recognized as a belligerent,”—I would state that the assault upon Fort Sumter was made April 12, and that it surrendered two days after, the 14th. This was the first intimation that the government at Washington had that the insurrectionists were preparing to push matters so far as to take up arms. Then, as I believe, every American will bear me out in asserting, the general belief at the North was, that the act was only one of “State-right” hotheads, which the great body of Secessionists would repudiate immediately, and that the insurrection, if it called for the use of arms to suppress it, would be entirely local in its character and easily subdued. At this time the Federal government had not a soldier in the field, nor had it taken the first step in arms toward avenging the gross insult offered to its flag. Lord Lyons, himself, writing to Earl Russell, under date of April 15 (received in London, April 30, Blue Book, No. 1, p. 19), speaks of the President’s “only having resolved to adopt coercive measures against the South,” not of having actually taken any steps in that direction down to the date of the 13th. *Now there was just six days’ interval between the receipt of this letter and the announcement in Parliament of the Cabinet determination to recognize the Confederates as belligerents*

Was it ever heard of before in history, that insurgents who were only known to have been in arms one week, and against whom it was not yet certain that the present government would adopt any other coercion than that of an external blockade, or, perhaps, a “re-

possessing itself of the forts, places, and property, which had been seized from the national authority," were to be recognized as belligerents on the ground of a subsisting flagrant war, and that they had become a duly organized government?

But of course it will not be left out of view, that the irresistible and inevitable necessity which is alleged to have constrained the acknowledgment of Confederate belligerency, and so of Confederate equality, must have arisen out of the rebels' ability to carry on war *by sea* as well as by land; since it was only on the sea that the steps taken to encounter and suppress their insurrectionary proceedings would touch upon the interests of England and France. Had the insurrection been purely inland, I suppose that it might have gone on for twenty years, and even assumed larger proportions than it did, without disturbing the equanimity of the two great Western powers. I believe the world have not yet heard that the great struggle of the Poles for independence within the last two or three years necessitated any recognition of Polish belligerency. Now, how was the fact in regard to the marine struggle between "the two distinct confederacies of the late Union," as Lord Russell styles them on the 6th day of May, 1861?

It will hardly be pretended, I suppose, that there was on that day any subsisting war on the ocean between the two confederacies, nor even, I believe, that there was a probability of any such war for some time to come, unless the Confederates could subsidize a show of naval force by hiring or buying vessels from abroad. But is England a convert to the doctrine of fighting naval wars by proxy? Quite recently we have heard of the proposal of Switzerland to buy or hire a seaport on the Mediterranean and hoist a nautical national flag. Is England so far prepared to accept the maxim in the commercial law of agency that *qui facit per alium facit per se*, that she is ready to come into a European understanding to acknowledge Switzerland as a naval power in case of future continental wars, supposing that she can carry out her proposed extra-territorial arrangement? Does England recognize the right of her New Zealand rebels at the present moment to come to Europe or America and hire fighting ships to beat off her blockade of their island?

However the decision of England may be on these points, Earl Russell and Historicus cannot alter the fact, that at the inception of the rebellion, the Confederates had no naval armament of their own, and had no reasonable expectation of ever procuring any one that could for a moment withstand the Union marine. Down to the present moment, can the operations of even such pseudo war-vessels as the Alabama and the Florida be said to have amounted to a state of organized belligerency against the North? I will not ask whether those skulking corsairs have been able to maintain any show of contention on an equal footing, but whether they have been able to keep up anything which approached an existing state of organized warfare? Has it not been buccaneering and marauding, on their part, even within Historicus's own admission, rather than a state of legitimate naval warfare?

But at the date of May 6th, 1861, Jefferson Davis, as Historicus urges, had threatened to issue letters of marque and reprisal, and the safety of British seamen and British commerce required his instantaneous recognition as a marine belligerent. As if Captain Kidd should have laid claims to the honors of war, because he had thought to enlarge his field of usefulness by granting commissions to others to encourage them to imitate his own prowess! Does Historicus say in earnest that England had anything to fear from Davis's privateers, either in assailing British ships of war, or in pillaging British merchantmen? If he does, I can only pronounce it, in my estimation, a deception and a pretence. For Confederate cruisers to assail their good friends, the British, at that day of their embryo existence, is an absurdity too glaring to deserve a moment's reflection. But, then, to see the remedy actually applied! There was danger of having unrecognized privateers visit and search British merchantmen; and so, to guard against it, these privateers must needs be raised to the full rank of belligerents, and the whole fleet of British merchant ships enjoined by Her Majesty's proclamation to yield a passive submission to whatever overhauling and turning upsidedown it might please Mr. Davis's employés to inflict upon them! An extraordinary mode of getting rid of an evil, that of swallowing it whole!

But to go a step farther in estimating British sincerity in pro-

tecting British commerce from the aggressions of privateers. The United States, as is well known, at the very earliest outbreak of the rebellion, hastened to propose to the two Western European powers to come into the Declaration of Paris and abolish privateering, — the only point of resistance upon which the Federal Government had hitherto stood out. What was the English and French answer to the proposal? “We will not accept your proposal without the reservation of the full rights of your insurgent subjects to commission these privateers; for, otherwise, we should not be treating them on a footing of equality with you.” So that England and France purposely kept alive the prospect of privateering depredations, and for the avowed object of enabling the rebels to carry on war to better advantage against their lawful government. I think very little of warding off a threatened commercial danger by such a process of purposely keeping it on foot and insisting upon its indefinite increase.

But what danger had England and France to dread from aggressions on the part of *Northern* cruisers, if that bugbear is to constitute the constraining motive for recognition of belligerency at their hands? I believe I can best answer this question by requesting my reader to put himself into the current of events at the date of the occurrence of the Trent affair, and to bring before his mind the condition of things connected with that event. That memorable historical incident occurred in November, 1861, some seven or eight months after the attack on Sumter. Recalling, then, the relative attitude of the two countries, England and the United States, toward each other at that period, and remembering the sensation excited by that (probably) first act of visitation and search by an American war-ship of an English merchantman — a case, where, in the American view, Captain Wilkes fell short of his duty in not bringing in the Trent for adjudication, instead of letting her go again after a few hours’ detention — can the reader believe for a moment that English commerce up to that point had experienced much annoyance from Northern cruisers, though the right of visitation and search on their part had then been in full force for upward of seven months?

If Historicus quotes the fable of the wolf and lamb to illustrate

any part of the relations subsisting between the two countries during the civil struggle, — an illustration which he thinks pertinent to this complaint about premature recognition, — I submit whether England, on this occasion of the Trent affair, should not justly take the part of the wolf, standing ready from the 6th day of May, 1861, till the 3d day of December following, to snap up any American lamb that should happen to trouble the stream of her commercial navigation. At any rate, with her *lamb-like* redress of the Trent injury, as Historicus would probably call it, is it very probable that she had previously suffered from many antecedent aggressions upon her neutral rights by American public ships, or that if any such had really occurred, she had let them go by unnoticed?

But since Earl Russell and Historicus challenge an inquiry into the friendliness of the motives which impelled this sudden stroke of British diplomacy in recognizing Confederate belligerency before there had been any speck of war on the sea and none on the land of more than six days' duration, by their new theory of protection to British maritime rights, I beg to call attention to another contemporaneous exposition of the reasons of state which probably prompted the measure, quite at variance with those now set up by them for the first time.

A debate occurred in the House of Lords on the 16th of May, 1861, three nights after the announcement of the proclamation of neutrality, and in which the inquiry was, what would be its effect upon privateering and upon Englishmen who should take part on the Confederate side. The declarations made by the leading peers upon this head were so significant and decisive, that I desire to urge them upon the attention of any who are disposed to conclude that English recognition of Confederate belligerency was a necessity and not a choice.

Says Lord Derby, who struck the key-note of the measure [I quote from Hansard, v. 162, p. 2082, &c.], —

“The Northern States must not be allowed to entertain the opinion that they are at liberty so to strain the law as to convert privateering into piracy and visit it with death. The punishment under such circumstances of per-

sons entitled to Her Majesty's protection would not be viewed with indifference, but would receive the most serious consideration by this country."

Lord Chelmsford (Ex-Lord Chancellor) was still more explicit, —

"He should wish to know from his noble and learned friend [Lord Brougham] whether he meant to contend, that if an English ship were commissioned by those States (the Confederate) and fitted out as a privateer against the Federal Government, her crew would under such circumstances be guilty of piracy? British subjects so engaged would no doubt be answerable to the laws of their own country for an infraction of the foreign enlistment act; but it was perfectly clear, on principles of international law, that they would not be liable to be treated as pirates. If, he might add, *the Southern Confederacy had not been recognized by us as a belligerent power*, he agreed with his noble and learned friend that *any Englishman aiding them by fitting out a privateer against the Federal Government would be guilty of piracy.*"

So, Lord Chancellor Campbell, the very authority quoted by Earl Russell for the declaration of neutrality being based on President Lincoln's proclamation of blockade, expressed himself with equal explicitness and significance, —

"If, after the publishing of the present proclamation, any English subject were to enter the service of either of the belligerents, there could be no doubt, that although he would be guilty of a breach of the laws of his own country, he ought not to be regarded as a pirate for acting under a commission from a State, admitted to be entitled to the exercise of belligerent rights and carrying on which might be called a *justum bellum*. Anybody dealing with a man under these circumstances as a pirate and putting him to death, would, he contended, be guilty of murder."

Certainly the Lord Chancellor does not speak here as if the protection of British commerce required an immediate manifesto to the American Government, warning them against interfering with British merchant ships and British neutral rights, but, on the contrary, the protection sought for seems to be that of Confederate privateersmen, whom Lord Derby would not allow to be hung, and the protection of British shipbuilders and British sailors from the penalties of piracy, to which both the Lord Chancellor and the

Ex-Lord Chancellor say they would have been liable, but for this measure of British foresight and British self-aggrandizement.

On this evidence, I submit to my readers, with entire confidence, whether it is not an after-thought on Earl Russell's and Historicus's part, in contending at this late day that there was no unfriendliness on the part of the British Government in hastening to recognize the Confederates as belligerents, but that they were constrained to do so in consequence of the establishment of the American blockade. I ask, rather, whether these two propositions are not so far made to appear, —

(1.) That England hastened to raise the Confederates to the *status* of a belligerent power under the pretence of an existing state of war, when as yet only an insurrectionary blow had been struck at Fort Sumter, and no more than one week was known to have elapsed within which the American Government could decide whether the insurrection would need suppression by arms, and when as yet that government had not put the first soldier into the field nor fired the first gun toward such a suppression ;

(2.) That the motive for recognition of Southern belligerency was much more to throw protection over Confederate privateers and their crews, and to aid the rebel cause with contributions of English volunteers and English naval armaments and equipments, than to guard English commerce from being harassed or interfered with by American cruisers.

II.

THE AMERICAN PROCLAMATION OF BLOCKADE NOT THE OCCASION OF THE RECOGNITION OF CONFEDERATE BELLIGERENCY, BECAUSE, SUPPOSING THE FORMER TO HAVE BEEN OFFICIALLY COMMUNICATED, IT WAS NOT KNOWN TO HAVE BEEN ENFORCED AT THE DATE OF THE LATTER; AND FURTHERMORE, IF ENFORCED, WAS NOT SUCH AN ACT AS OUGHT TO HAVE BEEN INTERNATIONALLY TREATED AS AN ACT OF WAR.

I HAVE to say, on this second head, that no such justification can be set up for the recognition of Confederate belligerency as that of the establishment of the American blockade, because no such blockade was known in England to have been established at that date; and because the proclamation for a prospective blockade was just such an act as called for explanation from international comity, before being treated with the harsh construction that raised a band of insurrectionists to the level of equality with their rightful government.

Dates are of importance, again, on this head. President Lincoln issued two proclamations of blockade, the first, dated April 19th, and announcing an intention to blockade the ports of seven States — South Carolina, Georgia, Alabama, Mississippi, Florida, Louisiana and Texas; and the second, dated April 27th, including in addition to the above, the two States of Virginia and North Carolina which had since given in their adhesion to the rebellion. Both these proclamations, I now submit, were only prospective in their nature, and on their face intended merely for measures for the suppression of domestic insurrection, but (more importantly for present purposes) *were never actually enforced till the 30th day of April.*

This last point is established on British authority, by evidence of British consuls resident in America, collected in the Blue Books for 1862 (“North America, No. 8”). The earliest blockade was that established at the mouth of Chesapeake Bay by Commodore Prendergast, April 30th. Other points were blockaded at the fol-

lowing dates : — Charleston, May 13th ; Mobile, May 27th ; New Orleans, May 28th, &c.

If further corroboration were wanted of the fact that the earliest date at which the American blockade took effect was April 30th, it will be found in the decision of the United States Supreme Court in “the Prize Cases” reported in 2d Black’s Reports, p. 635, where the precise question of this date arose, involving captures of many hundreds of thousands of dollars in value. So that we may proceed in this discussion with the accepted starting-point, that no American blockade took effect till April 30th, 1861 ; and that then there was the further grace of fifteen days for outward-bound vessels, and of being warned off for the first time for inward-bound vessels, ignorant of the establishment of the blockade.

Now it needs no great amount of calculation to demonstrate, that an event occurring at sea on the American coast, April 30th, and so not known on shore till some time later, could not have been known in England so soon as May 6th. The submarine telegraph had long before ceased to operate, and we may safely assume that Commodore Prendergast’s operations were not known in England at that date, nor even as early as May 13th. The determination to issue the proclamation of neutrality, I conclude, then, with perfect confidence, did not rest upon any knowledge of the American blockade being actually in force.

I next submit, that the President’s proclamation of April 19th (and there is no difference in this respect with regard to the proclamation of the 27th) is merely prospective in its nature, — declaratory of an intent to establish a blockade in future, — and that it purports to be a mere municipal or domestic measure for the collection of revenue and the restoration of domestic good order.

That it was merely prospective in its nature and declaratory of a future intent is judicially settled by the Federal Supreme Court in the case just quoted from the 2d of Black’s Reports. Both portions of the bench, the majority who gave the decision of the court, and the dissenting minority, harmonize in opinions on this point. If it were worth while, I would stop to cite strong *dicta* by both sets of judges to corroborate this statement ; but I deem it quite unnecessary, because I find that Earl Russell took the same view

of it in the despatch which he wrote to Lord Cowley, the British ambassador at Paris, May 6th, already quoted. In that despatch (p. 1) he says: "President Lincoln, in behalf of the northern portion of the late United States, has issued a proclamation *declaratory of an intention* to subject the ports of the southern portion of the late Union to a rigorous blockade," &c.

So that on the very day of resolving to declare neutrality in the existing American war, Earl Russell was well aware that the American proclamation was only prospective. The same thing was well understood by Lord Lyons on the other side of the water, who writing home to the Foreign Secretary as late as May 4th, reports to him that Mr. Seward had written to say "that the proclamation is mere notice of an intention to carry the blockade into effect, and the existence of the blockade will be made known in proper form by the blockading vessels."

Having thus established that the blockade was merely a prospective measure, and so understood at the time, I would ask if Earl Russell, or Historicus, or any other publicist, is prepared to assert that a threat to establish a blockade — even against an independent nation, much more against insurrectionary subjects — is a sufficient justification for proclaiming a state of war and recognizing the blockaded party as belligerents? Why! the very ground-work of fact assumed in Lord Campbell's reasoning for such an opinion (as reported by Lord Russell) has not yet come into existence: — There cannot be "any interference with neutral commerce," till a neutral ship is stopped, or searched, or seized, neither of which acts is allowable till a blockade is established by the power issuing its manifesto of a future intent to that effect. Even the (so-called) belligerent's prize court would not pretend to condemn captures of war till the blockade was thus actually enforced. Let the reader just reflect upon the point of controversy in the prize cases just quoted, where the Federal court only condemned for a violation of blockade committed fifteen days after the 30th of April, and where the contention turned upon the date of the establishment of this blockade, and he will see at once the justice of my position.

To give the point a popular test, let me ask, whether if the county of Cork, in Ireland, for instance, were in a state of insurrection

against the British Crown, and the home government for reasons of convenience should elect to suppress the rising by a marine instead of a military force, would it be thought a just cause for the recognition of the insurgents as a belligerent power, for the Cabinet to announce its intention to blockade the port of Cork within a given time? Why! the very Declaration of Paris of 1856 announces that such pronunciamientos are null and void, and not to be respected till made effectual; and would Earl Russell now contend that he has a right to treat them as *casus belli*, and thereupon proclaim neutrality? On the contrary, in this very despatch to Lord Cowley, of May 6th, last referred to, Earl Russell makes it a special part of his application to the French Government, to seek to compel the United States to come into one of the terms of that declaration—that relating to the abolition of privateering; it being well understood that they had already adopted in effect the clause in regard to constructive blockades.

But will a blockade, *actually enforced*,—especially against insurrectionary subjects,—necessarily draw after it the consequences of belligerency? This is a question which I believe that neither an English Secretary of State for Foreign Affairs nor a French Minister of Foreign Affairs would be very ready to answer in the affirmative. Thus, to put again the case just supposed, of the blockade of the port of Cork or Queenstown: Suppose, that, instead of a promulgated intention to blockade, there were a blockade actually enforced, for some reason of its not being convenient to march troops through the interior of the country; would England take it in good part, if the United States should acknowledge the belligerency of Queenstown and hasten to proffer to that town the aid of their sailors and their workshops?

Would France relish the doctrine that a blockade of revolted provinces necessarily creates a state of belligerency? She has actually and strictly blockaded the coast of Mexico for two years, prior to the treaty of 1839, without its being called a state of war. England and France jointly blockaded the ports of the Argentine Republic for ten years, following 1838, and captures of contraband violators of the blockade were released on the ground that the blockade itself was not inconsistent with peace; and so of other

instances noticed by Hautefeuille (in his chapter on Pacific Blockade), who I am willing to agree with Historicus, indulges in many doubtful theories of international law, but who doubtless is correct in the statement of these historical events which I have cited, especially as they make against the doctrine which he is seeking to establish. Russia, again, blockaded and *closed the ports* of her Circassian rebels on the east shore of the Black Sea for upwards of five years succeeding the year 1831 ; and, what is more, *England, under the lead of Lord Palmerston as Foreign Secretary, acquiesced in the blockade and surrendered the claims of her subjects who suffered loss from it.*¹ Indeed, I believe that I might safely assert that the diplomatic experience of Earl Russell would furnish him with at least twenty instances of established blockades, within his own personal cognizance, which have never been treated as belligerent acts. If that be so, or anything like it, then one may ask with weighty remonstrance, how happened it, that the Cabinet to which he belonged seized upon this American denouncement of peaceful and commercial coercion toward its insurgent subjects as a ground for straightway raising them to the dignity of a belligerent power ?

But this naturally leads me to the latter branch of my topic, that if the American proclamation of blockade were at all doubtful as a measure of interference with neutral rights, it was just the case for explanation, and not for being seized hold of as a pretext to do an international injury.

Is there any doubt that the President's proclamation of blockade meant *peace*, and not "war," as Historicus alleges ?

I take occasion here to correct a gross misstatement, on this head, by the writer just named. He says that the Queen's proclamation of neutrality, like that of President Lincoln's of blockade, shows an existing state of war on the American side of the water. After quoting the recital of the first, "Whereas hostilities have unhappily commenced between the government of the United States of America and certain States," Historicus proceeds to characterize it as "a statement precisely in accordance with the proclamation of President Lincoln, which *had issued those words previously.*"

¹ See the case of the ship *Vixen*, 26 British and For. State Papers, p. 2. In this instance the Russian Government, to be sure, did not use the term *blockade*, but the British merchant found the substance of the thing in it, to his cost.

Now there could not be a grosser inaccuracy, not to say perversion of the truth, than this. So far from President Lincoln's proclamation, acknowledging the existence of a state of war, it was just the object of this state-paper *not to do it*. On the contrary, the American proclamation begins, "Whereas *an insurrection* against the government of the United States has broken out" (in the seven States named) "and the laws of the United States for the *collection of revenue* cannot be effectually executed," &c., and "whereas a combination of persons engaged in such insurrection have threatened to grant pretended letters of marque," and "whereas an executive proclamation has already been issued requiring the persons engaged in those *disorderly proceedings* to desist therefrom," "now, I, Abraham Lincoln, President of the United States, with a view to the purposes before mentioned and *to the protection of the public peace*," &c., "have further deemed it advisable to set on foot a blockade," &c.

Not a word about "hostilities," from beginning to end; but on the contrary, a blockade for the "collection of revenue," necessitated by "an insurrection," and designed for "the protection of the public peace."

Where were the eyes or the candor of Historicus, when he read that document and characterized it as he does? Even the editorials of the journal, to which he lends the sanction of his name, could hardly be guilty of a worse perversion; and I take the liberty of adding, that I fear his own communication throughout, in the present instance, has suffered from that corruption of good manners which is so sure to follow bad companionship.

What was precisely the American Government's scheme of instituting the blockade, I cannot undertake to state. But that it was essentially a plan for smothering the Slaveholders' rising, intended for domestic coercion and repression, and not for interference with foreign nations or for aggression upon their commerce, must, I think, be conceded by every impartial inquirer into the facts of that day. I cannot doubt, but, that, if the British and French Governments had only signified in a friendly way to the American Government, that certain modifications of the rights of search on the high seas were necessary to prevent the blockade being considered of an international and not a municipal character,

such modifications would have been cheerfully submitted to, without the insult and aggravation of being told that their government had already gone to pieces and that their rebel subjects were as good a belligerent power as themselves.

On the other hand, is it to be wondered at, that — after the incalculable lift given to the Slaveholders' rebellion by this European action of recognition, and more especially after the significant virtual announcement by the two great Western powers, that they cared more for procuring cotton than for the integrity of the American Union, and that they meant to leave the door open for blockade-running, at all events, — the United States should accept, and feel constrained to act upon, a theory of blockade as imperfect as that left to it by the coöperation of British Lairds and British joint-stock, blockade-running associations?

I call attention, though, to the fact, that the decision of the United States Supreme Court, affirming the enforcement of the blockade to amount to a recognition of Southern belligerency on the part of the United States for certain purposes, was made long after the action of the two great Western powers had compelled that government to accommodate its blockade to external dictation, and that, certainly, the change of this blockade from a municipal into an internationally-conducted proceeding would never have been necessitated but for the hasty and unfriendly recognition of Southern belligerency.

If I am asked more particularly how this would have been brought about, if the proclamations of neutrality by England and France had never been issued, I answer that, if, in the first place, the continuance of any American blockade would have been rendered necessary but for this European interference, I believe that it would have been the intention of the American Government not to exercise belligerent rights on the high seas as to foreign nations, — say the right of search and capture in case of carrying contraband of war, — but that they would have contented themselves with a close blockade of the mouths of the Southern harbors by stationary squadrons, and would only have dealt with violators of that blockade who came close to hand; just as in a besieged inland city, beleagured on all sides, the right of suppressing internal insurrection would carry with it the right of treating any person

violating the beleaguerment as an enemy. Certainly, if the same principle of respecting a lawfully-established blockade had been observed by the English as has been practised on by the French during the late rebellion, there would have been no difficulty in the United States' Government making good their intended domestic repression as against all external invasion.

I believe that I may safely conclude what I have to say upon this point of the American right to have foreign powers duly respect their blockade, established for revenue and disciplinary purposes, by putting to English and French statesmen the question, — Are you prepared to accept and to agree hereafter yourselves to abide by the precedent which your governments have set in this American civil war, of refusing to acknowledge any blockade established for the repression of domestic insurrection, except upon the footing of insurgent equality and of free license to blockade-running, except so far as is interfered with by the lax restraints of general maxims of international duty? If you are not, then you will agree with me, that even if the American blockade had been actually enforced at the date of the 6th of May, 1861, and even though that blockade had infringed upon the rights of foreign commerce in some degree, a fair share of international comity toward a nation engaged in the suppression of a groundless revolt, — originating in the most immoral motives of any rebellion on record, — would have kept off the recognition of its rebellious subjects as a belligerent power longer than was practised toward the United States in the present struggle.

III.

CORRECTION OF VARIOUS MISSTATEMENTS OF HISTORICUS IN HIS ARTICLE OF MARCH 22^D, AND INCIDENTAL NOTICE OF EARL RUSSELL'S DESPATCH TO LORD LYONS OF MARCH 6TH, 1861.

I PROCEED briefly to notice some additional misstatements or perversions of fact of Historicus's, besides those which I have already attempted to set right. It is perhaps quite unnecessary to do this, at the side of the more general discussion in which I have engaged; but as I shall limit myself to those bearing upon the main points of contention, and as this writer enjoys (I take pleasure in saying, most deservedly, in many respects) a large share of English confidence for his elucidation of international topics, I trust that the reader who has thus far followed my disquisition, will not find his patience abused by being asked to judge of the fairness of my strictures upon these detached though affiliated matters.

Historicus says (*inter alia*) that the proclamation of neutrality conferred no rights upon the Confederates; it only recognized an existing state of things. In his precise words, —

“It is nothing more nor less than a domestic document affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations.”

But did not Lord Russell regard it as something more, when he was communicating to the French Government through Lord Cowley, with solemn diplomatic earnestness, as I have already quoted, that, —

“Her Majesty's Government cannot hesitate to admit that such Confederacy is entitled to be considered a belligerent, and, as such, *invested with all the rights and prerogatives of a belligerent.*”

Who "invested" them with those rights and prerogatives, I would ask, but England and France? When Lord Chelmsford says, that, after the recognition of the Southern Confederacy as a belligerent power, no British subject aiding them in rebellion would be liable to be treated as a pirate, and that such a subject who undertook to fit out a privateer against the Federal Government, but for that recognition, would be guilty of piracy, is there no "conferring" of a right or privilege upon the rebels? When Lord Derby says that the Northern States must be given to understand that they cannot turn privateering into piracy, and that if British subjects participate in the latter, they will still be treated as under Her Majesty's protection, is it not "in some way interfering with the affairs of other nations?" And, finally, when the Lord Chancellor sums up the climax, by stating the law to be, that if any such British aider and abettor of the rebellion were treated as a pirate, the persons so dealing with him would be guilty of murder, does it not strike the common mind that the creation of such a state of things carries with it aid and comfort of an important kind?

And this leads me to notice another gross blunder (or something worse) on the part of Historicus, which the authority of the Law Lords just quoted effectually disposes of. He says, —

"If no such war [recognized by the declaration of neutrality] existed, then the shipbuilders might equip, arm, and despatch, vessels of war equally to New York and to Charleston. English subjects might enlist and take service in the forces of either party."

And again, —

"If there had been no war, Mr. Laird might have equipped for the South 500 Alabamas without interference. This is what *the North have gained*."

Per contra, Lord Chelmsford, —

"If, he might add, the Southern Confederacy had not been recognized by us as a belligerent power, he agreed with his noble and learned friend (Brougham) that any Englishman aiding them by fitting out a privateer against the Federal Government would be guilty of piracy."

I have just above quoted the Lord Chancellor to the same effect. Lord Kingsdown followed in the same strain. Indeed, so strong ran the debate in the "Lords," in the direction of throwing British protection over aiding and abetting the Confederate cause, that Lord Ellenborough at the close of the discussion had to deprecate what he thought would be the effect of the speeches made by the peers in counteracting the tenor and effect of the Queen's proclamation, by assuring Englishmen that if they adopted the notions of the speakers and took part in the war, they might find themselves hung, upon American principles, long before diplomacy could come to their relief. Perhaps these declarations of a Lord Chancellor and two ex-chancellors, to say nothing of the other legal luminaries alluded to, or who took part in the debate, will induce Historicus to abate somewhat from the *dash* of his assertion about fitting out Alabamas for the South with impunity. Perhaps, instead of asserting hereafter that Mr. Laird might have equipped "five hundred" "without interference," but for the Queen's proclamation, he will agree with Lord Chelmsford, that he could not have fitted out *one* without being guilty of piracy, unless for the shelter of that state document; and that will be enough for all practical purposes.

Enlarging upon the notions of free commerce and free fighting, Historicus goes on to say, that, even the United States themselves did not treat the Confederate privateers as pirates. And he quotes the case of the trial of the crew of the Savannah for piracy in New York, in 1861 (*not* 1862, as he erroneously has it), where a Confederate vessel had been captured at an early day of the rebellion by the Federal navy, and her crew carried into that city and tried for piracy. He says, —

"The judge charged the jury that the ship could not be regarded as a pirate under the law of nations. And the government could not get a jury to convict, on the municipal statute. The arguments are published at length in a report of the trial, for a copy of which I am indebted to the eminent lawyer, Mr. Evarts, who represented the United States Government on that occasion. . . . We have the authority of the American judges in this very conflict, that by the law of nations a Southern-privateer could not be treated as a pirate when exercising force against us."

In reply to this, I can only say that I wish Historicus had read

the report of the trial so kindly sent him by Mr. Evarts, before making this representation, or rather *misrepresentation* of American law. I have the report referred to, before me, at this writing, and I read from the learned judge's charge to the jury, at p. 371, as follows, —

“The robbery charged in this case is that which the act of Congress prescribes as a crime, and may be denominated a *statute offence*, as *contradistinguished from that known to the law of nations*.”

Thus, according to Judge Nelson, the crew of the Savannah were not tried at all for an offence under the law of nations; and the learned judge had no occasion to pass upon the question whether they were not protected from the penalties of piracy by being under the shelter of international law as legitimate belligerents. On the contrary, a little farther on than where I have quoted, after explaining the statute (an old one of 1820, denominating “robbery,” &c., on the high seas, “piracy”), he goes on to say, —

“Now, if you are satisfied, upon the evidence, that the prisoners have been guilty of this statute offence of a robbery upon the high seas, it is your duty to convict them, *though it may fall short of the offence as known to the law of nations*.”

The learned judge took especial pains *not* to take it upon himself to decide that the North had made the South belligerents under the law of nations, as Historicus would apparently have his readers believe, and expressly left the case to the jury upon the statute offence. That they did not convict was probably rather due to the judge's black-letter notion that the robbery must have been committed *lucri causa*, as in land robbery, than to any *dictum* of his about international law.

If Historicus would like to have the whole truth told (supposing his acquaintance with American transactions has not yet put him in possession of it), would he be glad to be informed that some of the Confederate privateersmen *were* convicted of piracy in Philadelphia, about the same time and under precisely the same condition of things as the crew tried in New York; and that his authority, Judge Nelson, has since expressly held *in banco*, at Wash-

ington, that there did not exist any state of belligerency between the North and the South till July 13th, 1861? If so, I would refer him to all the journals of the day, for the first fact; and, for the second, to the following brief extract from Judge Nelson's opinion in "the Prize Cases," 2d of Black's U. S. Reports, already referred to. In this opinion Chief Justice Taney and Judges Catron and Clifford concurred with Judge Nelson. The whole case, it may be remarked in passing, which does not perhaps yet decisively adjudicate the great question of when and how far the Federal Government have made the Confederates belligerents for all purposes, was decided by a bare majority of one judge. There is not a word in it about piracy. Says Mr. Justice Nelson, in giving the opinion of the minority of the court, at page 698, —

"Upon the whole, after the most careful examination of this case which the pressure of other duties has admitted, I am compelled to the conclusion that *no civil war existed between this Government and the States in insurrection, till recognized by the act of Congress, of the 13th of July, 1861.*"

Is not this rather a damper, from his American voucher, for that notion of Historicus's, that the British Government ought to have proclaimed neutrality and recognition of belligerency at the earliest possible moment after the issue of the President's blockade manifesto, say on the very same day, the 19th of April, 1861, if it had been possible to know of it by the Atlantic telegraph being then in operation?

Again Historicus says, —

"The North created belligerent rights in both parties by making war upon the South."

Perhaps most of his readers will accept this statement as intended for literal fact. If so, a grosser misrepresentation could not be made. The attack on Fort Sumter — the most ungallant and unrighteous challenge to combat that ever roused a free people to the defence of its government — must be understood, even by the shortest-memored Englishmen, as a Confederate and not a Union stroke of war. I am willing to concede that Historicus might not have intended to turn this great fact in the world's history wrong

side out ; but, without this correction, I fear that very many of his literal-minded readers would understand it otherwise ; and I submit that he is therefore reprehensible for something worse than mere literary carelessness.

Another of the Times's publicist's misstatements, bearing upon the main issue which I have all along been discussing, is, that even Mr. Adams, the American Minister, when he arrived in England, felt no sense of grievance at the hasty action of the English Government in issuing the proclamation of neutrality and recognizing Confederate belligerency, because he both ought to have been, and therefore doubtless was, prepared for it.

Historicus attempts to shape it as if the grievance lay in the want of proper personal consideration for the American Minister, in not waiting for his expected arrival. But Mr. Adams, I venture to assume, felt the wrong, if it were such, on his country's account, not his own. It was the Minister of the United States who ought to have been waited for, not Mr. Adams. Now, will Historicus dare assert that the American Minister, as a matter of fact, was not both surprised and aggrieved by the haste with which the Queen's proclamation was got out, in anticipation of his reaching Liverpool ? If this is his intimation, let us see if it is not a most unfounded one.

I have already quoted a part of Mr. Adams's first impressions of English action and opinion in his despatch to his government, giving an account of his first interview with the British Foreign Secretary. I quoted the despatch, it will be recollected, *apropos* of Lord Russell's explanation of the motives of the Queen's proclamation. I now recur again to the same document to see whether the American Minister had any complaint to make at that time in regard to the circumstances under which the British Government precipitated belligerent recognition.

I quote from the diplomatic correspondence accompanying the President's message, etc., for 1862, p. 92, —

[I told Earl Russell in this interview of May 18] “ that I must be permitted to express the great regret I had felt on learning the decision to issue the Queen's proclamation which at once raised the insurgents to a level of a belligerent State, and still more the language used in regard to it by Her Maj-

esty's Ministers in both houses of Parliament, before and since. . . . [I said further] I must be permitted frankly to remark that the action taken seemed at least to my mind a little more rapid than was absolutely called for by the occasion. . . . It did seem to me therefore as if a little more time might have been taken to form a more complete estimate of the relative force of the contending parties, and of the probabilities of any long-drawn issue. And I did not doubt that the view taken by me would be that substantially taken both by the government and the people of the United States. They would inevitably infer the existence of an intention more or less marked to extend the struggle. . . . I said this with regret, as my own feelings had been and were of the most friendly nature."

Nearly a month later, in a despatch to his government dated June 14th, Mr. Adams gives an account of a further discussion of the same subject, when the first excitement of surprise might be supposed to have somewhat worn off, —

"I next approached the most delicate portion of my task. I descanted upon the irritation produced in America by the Queen's proclamation, upon the construction almost universally given to it, as designed to aid the insurgents by raising them to the rank of a belligerent State. . . . I ventured to repeat my regret that the proclamation had been so hastily issued, and adverted to the fact that it seemed contrary to the agreement, said to have been proposed by Mr. Dallas and concurred in by his lordship, to postpone all action until I should arrive possessed with all the views of the new administration. . . . Our objection to this act (the proclamation) was that it was practically not an act of neutrality. It had depressed the spirits of the friends of the government. It had raised the courage of the insurgents. We construed it as adverse because we could not see the necessity of such immediate haste. These people were not a navigating people. They had not a ship on the ocean, &c."

The diplomatic correspondence of the American Minister with his government at this period is full of language like the above on the part of Mr. Adams. How, in view of it (and of course he has at some time read it), *Historicus* can assert, that Mr. Adams neither felt aggrieved nor had a right to feel aggrieved at the haste with which the British Government acted, — how he can still more dogmatically assert, as he does at the earlier point of his article already noticed, "that nothing has ever so much astonished him as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or enter-

taining for an instant such a complaint as that of the premature concession of belligerent rights to the South by Great Britain" — is to me not less a matter of mystery than of regret.

Mr. Adams is certainly a person of "ordinary intelligence and education," even by Historicus's own showing. Does not *he* complain of it? And has he not continued to complain of it — earnestly and persistently — down to the present moment of his official connection with the British Government? Has not Historicus, himself, devoted a long forensic of three columns of the Times, as recently ago as last December, to proving that President Lincoln and his advisers, Secretary Seward and Senator Sumner, were in the wrong in adhering to this error — "querulous complaint" he called it — for three years and upwards, because the Artigas precedent of the American Government made against it? Have these eminent persons — [alas! that the great and good President, who so amply filled out the perfect character of a Christian ruler in "loving mercy, dealing justly, and walking humbly before his God," is no longer with us to be quoted as a living authority, and that our sagacious, patriotic, and peace-seeking Secretary of State will perhaps have been maimed for future usefulness by the assassin's knife!¹] — have the survivors of these eminent persons, neither education nor intelligence to entitle them to a moment's mention?

I need not refer to other Americans, official or unofficial, who have shared and still continue to share in this "querulous complaint;" for if Historicus has never taken note of the acknowledged mouth-pieces of the American Government, its President, its Secretary of State, and its Minister to England, neither will he listen though I should produce the whole American people in testimony against him.

My only mystery is, how any one, even a correspondent of the London Times of three years' standing, should have the hardihood to throw out such bold and unwarranted misstatements as the above, supposing the object even to be the annihilation of an opponent as odious as Mr. Bright. My regret is, that one whose influ-

¹ Since the publication of this last allusion, though not until within two days past, it will have rejoiced my American readers to see Mr. Secretary Seward's name again attached to American State-papers.

ence with Englishmen has hitherto been so deservedly potent in many particulars, should run the risk of having it so largely impaired for the future by having any one examine and verify the reckless assertions and the unfounded reasoning which make up the staple of this late communication.

The last observation which I shall have to make upon Historicus's paper relates rather to its general tone and the strain with which he rounds its swelling peroration, than to any distinct assertion of fact or enunciation of a proposition of law. It seems worth while to notice this tone or strain, because several eminent Englishmen who have taken a prominent part of late in Parliamentary discussions upon American affairs, and particularly the Attorney General, Sir Roundell Palmer, whom Historicus on the present occasion seems to be imitating, have fallen into a habit of wondering at American "irritation" when things are said or done which are (erroneously) alleged by the speaker to be said or done after American fashion, and then attempting to soothe the so-called irritation by applying to it what may be called an *American blister*. Thus the Attorney General wonders at our irritation at the English Government's following American precedents of neutrality, he all the while misquoting or misapplying those precedents and assuming a better acquaintance with them than he is willing to allow to the Americans themselves.

On the present occasion Historicus is attempting to soothe our "irritation" at the hasty recognition of Rebel belligerency — a matter which, considering how hardly it has pressed upon us in vital particulars for the last four years, I think the world must give us credit for having borne with at least tolerable equanimity — with the following *international blister*.

Says Historicus, —

"I am too well aware of the unhappy irritation which exists on the subject [of recognition of the Rebels] in the public mind of America not to desire to offer the smallest contribution towards its removal." . . . "Unhappily, there are too many persons on both sides of the Atlantic who indulge themselves in the wicked and dangerous amusement of inflaming passions which they ought to soothe." . . . "My ambition is of quite another sort. I desire by a recourse to those fixed and ascertained principles of law and maxims of justice which are enshrined in the records of nations and the conscience of mankind

as the perpetual arbiters of truth and of peace, to remonstrate against an unreasonable anger and an unjust animosity. Surely, sir, these evil tongues, which are like a sharp sword, may rest sated with the blood which they have helped to [make ?] flow. *Sat prata biberunt.*"

All of which I venture to call the quintessence of cant ; only equalled by Lord Russell's declaring to his envoy at the American seat of government, Lord Lyons, on the 6th day of May, 1861, how deeply he deplored the disruption of the American Republic, and that "no expression of regret you may employ at the present deplorable state of affairs will too strongly declare the feelings with which Her Majesty's Government contemplate all the evils which cannot fail to result from it ;" and yet leading off to the world (the tidings of the attack on Sumter being then less than ten days old) with the announcement that "the late Union" "has separated into distinct confederacies," and, "the government of the Southern portion (having) duly constituted itself," Her Majesty's Government "feel that they cannot question the right of the Southern States to claim to be recognized as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent" — and "*Her Majesty's Government do not wish you to make any mystery of that [this] view!*" That is, "the civil war," as he calls it, having so far lasted ten days, he instructs his envoy "to make no mystery" of telling the government to which he is accredited, that its supremacy has gone to pieces, and that he shall henceforth consider himself minister plenipotentiary to "the late Union!"

Great affection, that, for the ally "with whom Her Majesty's Government have at all times sought to cultivate the most friendly relations!" And quite of a piece with that *friendly* declaration made by the same organ of Her Majesty's Government in the House of Lords, as lately as April 29th, 1864, when he said, "for my part, I have never been able to feel much sympathy with either of the contending republics, the United States or the Confederate States!" — very much in the sense in which the *affectionate* wife looked on to see her husband grappling with the bear, coolly remarking that she did not care a straw which beat.

But Historicus feels bound to denounce those who make "*an amusement*" of saying irritating things, and desires to enter his

protest against "an unreasonable anger." If he had felt bound to denounce those who *make a business* of saying irritating things, one would think that he must have hit hard at his great political exemplar and leader, the Foreign Secretary. At any rate, one would think that it would be hard to find a better illustration of irritating, either on principle, or else for amusement, than is furnished by this letter of Earl Russell to the British Envoy at Washington of May 6th. Of course, as Historicus would have us believe, the Foreign Secretary could not have meant to say anything *irritating* by that little piece of diplomatic effrontery and unfriendliness! Of course, it would have been a very "unreasonable anger" on the part of the American President and Secretary of State to have felt anything like resentment at a communication so full of ungenerous discouragement — not to say ill-timed impertinence — as that!

But leaving Earl Russell's insincere diplomacy in this connection to speak for itself (and I do not doubt that by this time, regarding the present stage of our struggle, he is ready to admit that this despatch of the 6th of May was a hasty and ill-advised communication on his part), I pass on to notice the affected formalism, or — as I must call it — *cant* of his newspaper champion and expositor.

Historicus plants *himself*, then, upon those immutable principles of justice and maxims of law "which are enshrined in the records of nations and the conscience of mankind," and he abhors the evil example of slanderous tongues which help on bloodshed.

Now, if I understand the sum and substance of the learned publicist's late communication to the Times, wherein occurs this piece of bold and swelling rhetoric, its upshot may be reduced to these two propositions:

(1.) That no person on either side of the Atlantic of ordinary intelligence or education has ever for an instant advanced or entertained a complaint on this score of the hasty recognition of rebel belligerency by England, and —

(2.) That if ever any ignorant or half-educated American has been so foolish as to make such a complaint heretofore, or is so benighted as to propose to make it hereafter, then that he is advised to consider himself estopped and annihilated by this new discovery of the blockade theory.

As to the first of these propositions — if it is altogether untrue in fact (notoriously and flagrantly untrue, even within Historicus's own knowledge), as I have endeavored to *suggest*, rather than to take the trouble of attempting to *prove at length*, — is it worth while to talk about soothing irritation, and affect the Christian virtue of peace-loving, when the soothing process consists in an attempt to force a lie down the American throat, and then to palm off upon the British public the notion that the American throat has swallowed it?

As to the second of these propositions, I hope that I have shown that Earl Russell himself, the highest and best authority, never thought it worth while, even down to September, 1863, to put forth the blockade theory of recognition as that upon which *he* acted.

But leaving Earl Russell aside, for the present matter in hand, I believe it has been made to appear that this new invention of a blockade as the *causa causans* of belligerent recognition will not work, first, because *as a matter of fact* it had not been officially communicated to the British Government that any American blockade had been notified — certainly not actually enforced — at the date of that government's decision to proclaim neutrality; and, secondly, because, *as a matter of law*, a manifesto of a proposed blockade is not such an interference with neutral commerce as can be taken hold of even by *unfriendly* powers, as a groundwork for their proclamation of a state of belligerency.

Is it with reference to this latter point — the legal effect of a blockade manifesto against insurrectionary subjects — that Historicus feels called upon to evoke against certain unnamed controversialists (“*irritabile genus*”), the immutable principles of law and the eternal maxims of justice? If it is so, I should be glad to have him produce the first glimmering of a maxim, or the first element of a principle, — whether juridical, or diplomatic, or in whatever “record” “enshrined,” — controverting and subverting the view above contended for, that a blockade must be enforced, in order to become a belligerent act, justifying outside neutral powers in interfering between the parent government and its insurgent citizens. Even going the length of an *enforced blockade*, but enforced *against a rebellious province or district*, I have yet to find the case

in public law, parallel to our own civil struggle, where neutral governments took it upon themselves, without waiting for an official notification of the terms of the blockade, to treat such a blockade as tantamount to a declaration of war and thereupon proclaimed belligerency and belligerent equality? Can Historicus produce any such?

Is it not pure cant, then, for a juridical writer to treat a case of such new impression — even in the aspect of it sought to be enforced by the Times's champion of British neutrality — as one “enshrined in the records of nations,” and calling for the denunciations due to stirrers-up of strife and thirsters for blood against those who venture to question the necessity or the fairness of the British state-proceeding?

Rather than be in such haste to close up the flood-gates of strife — in bucolic allusion — and from the philanthropic motive of aiming only at international peace and good-will, as Historicus so demonstratively professes, I would respectfully suggest to that eminent publicist, whether it would not have better comported with those professions, and have better served to soothe that American irritation which he so unnecessarily deprecates, if he had stated some one of the ten following propositions, which make up the groundwork of his discourse, more according to the fact than he has done. When he has made the just corrections upon these heads due to fair discussion, I can assure him that he will be better listened to on this side of the water upon the theme of cherishing a forgiving and a forgetting disposition. These are the propositions which I submit to his notice: —

1. That no man of ordinary intelligence or education on either side of the Atlantic has been or is now capable of entertaining for an instant a complaint against England for the premature recognition of Rebel belligerency.

2. That it was not a matter of choice, but of necessity, that the Queen should issue her proclamation of neutrality and without an instant's delay.

3. That a despatch received the 10th day of May, 1861, was the groundwork of action that took place on the 6th.

4. That if the proclamation of neutrality had never been issued,

British ship-builders might have equipped vessels of war equally for Charleston or New York ; and Mr. Laird might have fitted out five hundred Alabamas for the South without interference.

5. That President Lincoln's proclamation, like that of the Queen, recited that "hostilities had unhappily commenced."

6. That the Queen's proclamation was a domestic document, affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations.

7. That the crew of the Savannah were prosecuted for piracy under the law of nations, but that Judge Nelson charged the jury that the accusation would not hold ; and that the American judges [have held] in this very conflict that by the law of nations a Southern privateer could not be treated as a pirate when exercising force against us.

8. That the North created belligerent rights in both parties by making war upon the South.

9. That Mr. Adams neither felt aggrieved nor ought to have felt aggrieved at the issuing of the Queen's proclamation on the morning of his arrival.

10. That it is a principle enshrined in the records of nations, that when a government proclaims a prospective blockade against rebellious subjects, other nations are not only entitled but required to declare those rebellious subjects belligerents, entitled to all the rights and privileges thereto pertaining, though those subjects are only known to have taken up arms on land less than ten days ago, and though they have not as yet the first ship or sailor afloat on the sea, and have no reasonable hope of making any demonstration amounting to organized marine warfare for months to come, unless by the aid of other (so-called) neutral powers.

IV.

THE RECOGNITION OF CONFEDERATE BELLIGERENCY NOT A BY-GONE, BUT A CONTINUING REALITY.

I HAVE thus, as I hope, fairly met and disposed of the new case set up by Earl Russell and promoted by his champion of the Times with such an extraordinary course of advocacy as the above. But it may be asked of the writer, why take such pains, yourself, to answer a point so far in the background of the past? Is it not a by-gone which may as well be let alone?

To this I have two answers:—

(1.) That if the matter is of consequence enough to be resuscitated by as veteran a statesman and as practised a diplomatist, as Earl Russell, — to say nothing about his calling upon the London Times and its juridical contributor to furnish him with a platform whence to put forth his parliamentary dogma to the world, — it is of consequence enough for some American to follow on in the discussion and see that the truth is kept in sight :

(2.) That this point of premature recognition is not a by-gone, but a question of to-day, in the sense of its being the initiative of a policy which England has adhered to for the past four years, and which at this moment, so far as we know, she still persists in, namely, of treating our rebellious, government-defying, slave-clutching and world-contemning Seditionists, as forming as respectable a government as the inheritors of the American Constitution and the rightful representatives of the labors and principles of Washington.

Does any one say of this latter point, that it is nothing to have put us on a level with slave-holding anarchists *four years ago*, because the policy has been persisted in down to the present hour? — I ask if that disposes of the question whether the motive of those who thus at the outset of the rebellion inaugurated a policy which

they fully knew would lift the insurgents into the rank of a belligerent power, "with all the rights and prerogatives thereto pertaining," was friendly or otherwise; or, whether, as is now contended, there was an overruling necessity which deprived them of all volition in the matter and left them "no course but one to pursue." On the contrary, if that policy was unfriendly and unnecessary then, is it not likely to have been persisted in since, from the same unfriendly and unjustifiable motives?

But I have a more important reason to urge to my objector. Who are those among our statesmen best calculated to estimate the grave significance and practical moment of this measure of rebel-recognition, but those who have had the responsibility of suppressing the rebellion thrown upon them from the outset?—those who stood in the breach when recognition was first promulgated, and who to this hour have been watching day by day its effect and bearing upon the shifting scenes of the contest?—And what opinion have these official guardians of the public interest upon the bearing of that policy which was proclaimed in the British House of Commons on the 6th day of May, 1861? What opinion did the late President, do our present Secretary of State, our foreign ministers, — especially Mr. Adams, who has stood in the hardest spot of the diplomatic battle — the members of the Congressional Committee on Foreign Relations, and particularly its accomplished Chairman on the part of the Senate, — what opinion, I ask, do all these representatives of the republic hold upon this question of premature recognition? If they all agree, as I believe I am warranted in saying they do, that the question was (and therefore still *is*) one of the very most important with which they have had to deal, then I believe no labor is misplaced which tries to uphold and promote the just merits of a different policy which they insist ought to have been adopted at the outset of our struggle, and which must be reinstated in our favor at the first moment when we shall be in a condition to enforce our just rights of national respect.

What England calls neutrality, is, I submit, as if a ruffian should knock my hat off in the street, and when I undertake to repossess myself of it, a blustering bystander should step up and say, "Fair play, gentlemen; this is a fair fight; you are both equals; it makes

no difference to whom the hat belongs ; I mean to see one treated as well as the other ; I know no ruffian nor hat-owner in such a case as this ; perfect neutrality consists in treating you both perfectly alike ; and I mean to act in that magnanimous spirit till I see who gets the hat upon his head. Then, *finis coronat opus* ; and I shall take off my own hat to the victor."

Shame, I say, upon such so-called neutrality ! Shame upon the policy which set up Jefferson Davis for as rightful a belligerent as Abraham Lincoln, and which to the end of the chapter has insisted upon extending to the former as much of the rightful consideration due from the civilized world in that character as has been paid in that behalf to the latter. If there is no difference between them — if there *was* no appreciable difference between them — which should have prevented that "investing the former with all the rights and privileges belonging to a belligerent," spoken of by Earl Russell at the outset of the rebellion, then my essay is quite superfluous ; I concede that the recognition of Rebel belligerency is quite a by-gone matter, and that the Foreign Secretary has taken unnecessary pains to vindicate his government.

A P P E N D I X .

COMMUNICATION OF HISTORICUS TO THE LONDON TIMES OF MARCH 22d, 1865.

THE NEUTRALITY OF ENGLAND.

To the Editor of the Times :

SIR,—When Mr. Bright undertakes to draw up a bill of indictment against England we may rest assured that nothing will be omitted which may put his own country in the wrong in the eyes of mankind. Accordingly his speech on Monday last is a complete repertory of the grievances against Great Britain, which are the stock in trade of some American journalists and of some American politicians.

It would have been surprising in this encyclopædia of the wrongs of America, if Mr. Bright had omitted to advance the complaint of the “premature concession of belligerent rights” to the South by Great Britain. I confess that nothing has ever so much astonished me as to find that on either side of the Atlantic any man of ordinary intelligence and education should be capable of advancing or entertaining for an instant such a complaint. Mr. Bright is pleased to say, with lofty scorn at the conclusion of his tirade on this topic, “I will not argue this question further, as to do so would be simply to depreciate the intellect of the honorable gentlemen listening to me.” I quite concur with Mr. Bright that the question is one which hardly admits of argument, but exactly in the opposite sense to that in which he comprehends it. While you have permitted me to endeavor to elucidate some of the more obscure and difficult questions of international dispute to which this unhappy contest has given rise, I have never yet thought it worth while to expound at any length the futility of a complaint which ought to be self-evident to any man who understands the very first

elements either of law or of politics. However, when such stuff as this can be gravely advanced by a person of Mr. Bright's importance in the presence of the English Parliament, a demonstration of the full absurdity of this grievance may be useful, if not necessary.

I must, therefore, ask the pardon of your readers while I proceed to explain why, on the breaking out of the civil war between the Northern and the Southern States of America, it was a matter not of choice but of necessity that the Queen of England should issue a proclamation of neutrality to her subjects, and that that proclamation should be issued without one single instant's delay.

Let us look at the situation of affairs at the moment when the proclamation of neutrality was issued by the Queen, on the 13th of May, 1861. The material documents necessary to the understanding of this matter will be found in a paper presented to Parliament in 1862 (entitled "North America, No. 1"). At page 23 (No. 31) will be found a letter of Lord Lyons to Lord J. Russell, dated Washington, April 22, 1861, and received May 10, 1861. That letter is to the following effect,—

"I have the honor to inclose copies of a proclamation of the President of the Southern Confederacy, inviting application for letters of marque, and also a proclamation of the President of the United States, declaring that Southern privateers will be treated as pirates, and announcing a blockade of the Southern ports.

"I lost no time in taking measures to communicate the contents of these proclamations as fast as possible, both by telegraph and post, to Rear Admiral Sir Alexander Milne. The subsequent interruption of communication with the North has prevented my learning how far my measures were successful. I understand that some alarm is felt in the North respecting the Southern privateers. But it must be supposed that the navy of the United States will suffice to arrest their operations. If these privateers, however, make any head in the Gulf of Mexico, it may, perhaps, be advisable that a British squadron should be sent there to insure the safety of British merchant vessels."

Now, let any man of common sense consider what was the immediate duty of a government charged with the interests of British subjects all over the world on the receipt of such a despatch. On the one hand, the Northern Government had declared a blockade

of the Southern ports ; that is to say, it had assumed to itself a right as against neutral commerce which could only be justified by the existence of a state of legitimate warfare. The date of the proclamation of blockade was April 19, 1861. In virtue of this proclamation, the Northern Government, by the law of nations, became entitled to search English merchant vessels in every part of the high seas, to divert them from their original destination, and to confiscate the vessels and their cargoes. If a state of legitimate war did not exist, such action on the part of the Northern Government would have been unlawful, and would have been a just cause of war on the part of England, against whom such a course would in such case have been pursued without justification. The proclamation of blockade of the 19th of April was therefore either a declaration of war against the South, or it was a cause of war on the part of all neutral nations against whom it should be put in force. From that dilemma there is no escape. So far, as regards the position of the Northern Government as brought to the notice of the English Cabinet on May 10, 1861.

Now let us see what was our situation with respect to the Southern States. The proclamation of Mr. Jefferson Davis, authorizing the issue of letters of marque, was dated April 17, 1861. The English Government were consequently advertised that the high seas were about to be covered by armed vessels, who, under the color of a commission, claimed to exercise against neutrals the rights of warfare — that is, claimed to stop, and to search English merchant vessels, to capture them, and to carry them into their ports for adjudication, and to condemn them in case they had on board contraband of war. Nor was this all. If legitimate war existed, the penalties of the Foreign Enlistment Act came into operation. If no such war existed, then the shipbuilders might equip, arm, and despatch vessels of war equally to New York and to Charleston. English subjects might enlist and take service in the forces of either party. Mr. Bright aspires to the part of the champion of the mercantile interests of Great Britain. I would venture to ask him whether it was compatible with the duty of the English Government to leave them for a single instant in doubt as to their real situation in respect to the condition of things which

had arisen in America? Was an English merchantman, sailing peaceably in pursuance of his ordinary trade, to be left in ignorance whether an armed vessel which overhauled and captured him was regarded by his own government in the light of a pirate committing a robbery on the high seas, or whether it was a lawful belligerent exercising the recognized rights of war? What was to be the position of the English navy, who are posted in every corner of the habitable globe, to protect, by their presence, and if necessary to vindicate by their arms, the security of our mercantile marine? Were they or were they not to be informed whether they were to "sink, burn and destroy" as pirates or to respect as lawful belligerents the cruisers of either party who exercised against our merchantmen those acts of force which the rights of war alone could justify? No wonder that Lord Lyons thought it necessary to strain every nerve to give Sir A. Milne the earliest intelligence of the state of affairs. I am in the judgment of every man, whether he be in England or in America, who deserves the name of a statesman or of a jurist, whether the English Government, which, after the receipt of the despatch of Lord Lyons, should have interposed an instant's unnecessary delay in declaring to the subjects of the Queen their rights and their liabilities arising out of the conflict in America, would not have been guilty of the most grave dereliction of the duty which they owe to the Crown and to the country?

The English Government knew their duty, and they did it. Accordingly, on the 13th of May, 1861, the Queen's proclamation was issued. If there is anything to be regretted, it is only that the forms necessary for publishing such a document should have made a delay of three days necessary, otherwise it ought to have been issued the very day that Lord Lyon's despatch was received; and if the Atlantic telegraph had been complete it should have been issued on April 19, the day on which President Lincoln's proclamation of blockade was put forth.

Now, what was the purport of the Queen's proclamation of May 13, 1861? I will venture to say that Mr. Bright has never read it, or if he has, he has certainly not understood it. The Queen's proclamation was neither more nor less than a warning to her sub-

jects that a state of things had arisen which seriously affected their interests, and which altered their existing rights and their liabilities, and directed them how to act thereupon. It began by stating, "Whereas we are happily at peace with all Sovereigns, States, and Powers." It then proceeded, "Whereas hostilities have unhappily commenced between the Government of the United States of America and certain States styling themselves the Confederate States of America;" a statement precisely in accordance with the proclamation of President Lincoln, which had issued these words previously, and which assumed the belligerent right of blockade. It goes on, "Whereas we being at peace with the Government of the United States, have declared our royal determination to maintain a strict and impartial neutrality in the contest between the said contending parties." Then it recites the foreign enlistment act, which is only operative in the event of hostilities existing abroad, and warns the subjects of the realm to observe its prohibitions and avoid its penalties; and it concludes by advertising the Queen's subjects that if they engage in breaking a blockade established by either party, or by carrying contraband to either party, they will be abandoned to the penal consequences imposed by the law of nations, and will forfeit all right to the protection of the crown.

Such is the purport of the Queen's proclamation. It will be seen that in its nature it is nothing more nor less than a domestic document affecting the position of the Queen's subjects alone, and not in any way interfering with the affairs of other nations. It is of the highest importance clearly to understand the true character of this document. In loose and inaccurate parlance we hear it said that in the proclamation of neutrality the Queen's Government *conferred* upon or *conceded* to the Confederate States belligerent rights. It did nothing at all of the sort. The Confederate States had belligerent rights by the mere fact of being at war. They acquired these rights immediately that a state of hostilities arose by the North going to war with them; or their going to war with the North. Their title to belligerent rights was derived, not from the concession of any foreign power, but from the established code of the law of nations. We did not confer upon, or concede

to, them the right to go to war. They went to war of their own will and pleasure, and from the moment they did so the enjoyment of belligerent rights accrued to them as a matter of course. They were rights which we had neither the power to confer nor to withhold. We had no option or election in the matter at all. All that the proclamation of neutrality did was to inform the subjects of the Queen what were the consequences to them of a condition of things over which the English Government had no sort of control.

To make this perfectly clear, let us just consider what would have been the state of things if the English Government had not issued the proclamation of neutrality. The state of hostilities in America would have existed just the same; either party would have claimed and exercised the rights of war against the other and against neutral governments none the less. The North would have searched our vessels, enforced the blockade, and captured contraband. The Southern cruisers would have done the same. Their rights in these respects were not created by the Queen's proclamation, and would not have been lessened by its absence. What were we then to do? Were we to hide our heads in the sand, like the ostrich, and not recognize a state of things which existed, and would continue to exist, whether we recognized it or not?

Suppose the proclamation of neutrality not to have issued, what would have been the consequence? A Confederate cruiser captures an English merchant vessel laden with arms destined for New York; in what light is the cruiser to be regarded, and how is she to be treated by our government and our courts? An armed vessel exercising force against the ship of a foreign State on the high seas must be one of three things — an enemy, a pirate, or a lawful belligerent. Was the Southern cruiser to be treated by the English Government as an enemy? On that supposition we should have been at war with the South. Is that what Mr. Bright desires? But, if she was not an enemy, was she a pirate? I will not condescend to argue such a question. It has been settled for more than three centuries. A people in revolt are entitled to all the rights of war against the sovereign, and, if to the rights of war against him, *a fortiori* against others. This matter and the rea-

sons of it are admirably expounded in the well-known chapter of *Vattel* (B. III., cap. 18, § 287–293). Humanity and policy alike revolt at the idea of treating rebellion as piracy. The passions and folly of enraged and baffled governments may induce them to employ such menaces, but they cannot and dare not execute them. In that great landmark of English politics and English literature, Mr. Burke's letter to the sheriffs of Bristol, will be found the following passage, instinct with all the profound philosophy of a great political intellect: —

“The persons who make a naval warfare upon us in consequence of the present troubles may be rebels; but to treat and call them piracies is confounding not only the natural distinction of things, but the order of crimes, which, whether by putting them from a higher part of the scale to the lower or from the lower to the higher, is never done without dangerously disordering the whole frame of jurisprudence. The general sense of mankind tells me that these offences, which may possibly arise from mistaken virtue, are not in the class of infamous actions. If Lord Balmerino in the last rebellion had driven off the cattle of twenty clans I should have thought it would have been scandalous and low juggle utterly unworthy of the manliness of our English judicature to have tried him for felony as a stealer of cows.”

The Northern Government, it is true, threatened in the first instance to treat the Southern privateers as pirates; but, even in Mr. Lincoln's proclamation, he does not venture to assert that they can be so treated under the law of nations, but only under the municipal laws of the United States. The case was brought to the test in the instance of the crew of the Savannah privateer, who were tried at New York in 1862, for piracy. The arguments are published at length in a report of the trial, for a copy of which I am indebted to the eminent lawyer, Mr. Evarts, who represented the United States' Government on that occasion. The judge charged the jury that the ship could not be regarded as a pirate under the law of nations. And the government could not get a jury to convict on a municipal statute.

In such a question the courts of law follow the action of the government. It is necessary for this, as well as for other reasons, that the government should declare its view to guide the courts of law. But the view of a government of a foreign country on such

a question can only be governed by the law of nations, and we have the authority of the American judges in this very conflict that by the law of nations a Southern privateer could not be treated as a pirate when exercising force against us. Well, then, if the Southern cruisers could not be regarded as enemies, and could not be treated as pirates, we could only treat them as lawful belligerents. But if our government and our courts of law could only treat them as such, was it not of the most pressing and imminent importance that all the subjects of the realm should know that they were clothed—not by an act, but by the law of nations—with the rights against neutrals which belong to such a character.

But then, says Mr. Bright, “I don’t dispute that you are right in acknowledging the South as belligerents, but you did it in too great a hurry—you might have waited a little longer.” But why, in the name of common sense—why wait a single instant in a matter so urgently affecting the rights of every subject of the Crown? Why were the English merchantmen to wait to know whether they were to submit to be searched and captured alike by the Southern and the Northern cruisers? Why were they to wait to know whether they might or might not carry arms and munitions of war in safety to New York or to New Orleans? Why were they to wait to know whether there was or was not a lawful blockade, and whether they might or might not sail in safety for Charleston or Mobile? Why were English shipbuilders to wait to know whether they might or might not enter into contracts for the building of ships of war without exposing themselves to fine and imprisonment? Why were the courts of law to wait to know in what light they were to regard vessels or crews arraigned before them for forcible seizures at sea? Why were the Admirals on all our stations abroad to wait to know in what manner they were to treat the cruisers of the North and of the South—whether they were to regard the ships of the former as marine trespassers exercising rights over our merchantmen which could only be justified by a state of war, and whether they were to attack and destroy the Southern privateers as pirates, or to respect them as lawful belligerents? And on what pretence, I should like to ask, were questions to us of such momentous importance to be kept in suspense?

Because, forsooth, Mr. Dallas did not like to be troubled on business, and Mr. Adams had not yet arrived. In the name of common sense, why was the English Government to wait in order to consult Mr. Adams as to notifying to the subjects of the Queen the consequences to them of a fact which Mr. Lincoln had proclaimed to the world in his declaration of blockade twenty-four days previously? If Mr. Adams must necessarily have assented to the propriety of the proclamation, why was it necessary to discuss the matter with him? But if he had protested against it, would it have been proper or possible in the English Government to have paid any heed to his remonstrance? Mr. Bright complains of the unfriendly conduct of the English Government, and the shock Mr. Adams must have received when "he arrived in London on May 13, and when he opened his newspaper the next morning he found it contained the proclamation of neutrality, and the acknowledgment of the belligerent rights of the South." But why should Mr. Adams be shocked or surprised by the contents of his newspaper of May 13, 1861? He had arrived from America by the very mail which brought Lord Lyon's despatch and the several proclamations of President Lincoln and President Davis. The proclamation of the Queen conveyed no news to Mr. Adams. He had sought, no doubt, in his despatch for Mr. Lincoln's proclamation of April 19, which, in claiming the belligerent right of blockade for the North, in fact, declared the belligerent rights of the South. He could have had no cause to complain that on May 13 the Queen should explain to her subjects the consequence to them of a state of things which its own chief had created and declared by his proclamation three weeks before. To make such a transaction a ground of complaint is really to reproduce the old fable of the wolf and the lamb drinking at the same stream. Sir, I do Mr. Adams (whose wise and prudent courtesy and equanimity has been of such signal service to his own country and to ours) the justice to believe that turbulent politicians on both sides of the Atlantic make an unauthorized use of his name when they represent him as having been treated with want of consideration in this transaction.

We acknowledge the belligerent rights of the South because the Government of the United States by making war upon the land at

once created and declared their rights as inherent in them. We acknowledged their rights because those rights existed, and existed entirely independently of any action of ours. We could have done no otherwise, even if we would. When a riot takes place in the street the neutral tradesman puts up his shutters. He acknowledges thereby the riot, it is true ; but one party to the tumult has no right to complain that the tradesman either aggravates the riot or gives assistance thereby to his antagonist. It is a little too bad that he should at the same time be made to lose his custom, and also be abused for attempting to protect his property.

The North created belligerent rights in both parties by making war upon the South. The North have enjoyed their rights and we have indorsed them. They have seized our merchantmen and crippled our trade, and they have had a right to do it. If the South had not had belligerent rights it could only be because there was no war. But if there was no war, then the North could have enforced no blockade, they could have seized no combatant, they could have made no prizes. English merchants might have traded as before to Charleston and Wilmington and Savannah and Mobile and New Orleans with impunity. To have seized our ships would have been to make war on England. If there had been no war, Mr. Laird might have equipped for the South five hundred Alabamas without interference. This is what the North have gained. But war is a quarrel which necessarily requires two sides. In order to exercise belligerent rights yourself, you must have an antagonist, and that antagonist must have belligerent rights also. And yet it is this just and inevitable consequence of their own policy which the North seem disposed to lay at our doors, and to make a ground of complaint against us.

I must again apologize for expounding at this length a matter which to most of your readers will appear obvious and self-evident. But I am too well aware of the unhappy irritation which exists on the subject in the public mind of America not to desire to offer the smallest contribution toward its removal. Ignorance unfortunately is as fertile a source of mischief as malevolence itself. Nothing can be regarded as trivial which either fosters or may tend to tranquillize the feelings of exasperation which agitate a proud and sus-

ceptible people. There are, unhappily, too many persons on both sides of the Atlantic who indulge themselves in the wicked and dangerous amusement of inflaming passions which they ought to soothe, and exasperating prejudices and misapprehensions which they ought to labor to remove. Sir, I do not envy these men the occupation they propose to themselves, nor the success which, alas! they too often achieve. My ambition is of quite another sort. I desire by a recourse to those fixed and ascertained principles of law and maxims of justice which are enshrined in the records of nations and the conscience of mankind, as the perpetual arbiters of truth and of peace, to remonstrate against an unreasonable anger and an unjust animosity. Surely, sir, these evil tongues, which are like a sharp sword, may rest sated with the blood they have helped [make?] to flow. *Sat prata biberunt.* Let us appeal from these grievance-mongers, who trade in fancied wrongs and unfounded injuries, to the reason, the good sense, the good humor, and the justice of a kindred nation, which "is bone of our bone and flesh of our flesh."

Temple, March 18.

HISTORICUS.







